THE FREEMAN

Ideas On Liberty

- Train Wreck
- William H. Hutt: A Centenary Appreciation
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AUGUST 1999

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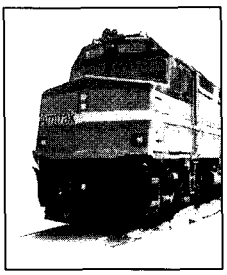

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PERSPECTIVE

Winners and Winners

Books and articles by the dozen bemoan the gap between "winners and losers" in today's economic boom. Even writers not associated with socialism have joined the moaners' chorus. For example, conservative Edward Luttwak writes in his new book, trendily titled *Turbo-Capitalism: Winners and Losers in the Global Economy*, "living in a country that so greatly respects and admires high-earning winners, losers find it hard to preserve their self-esteem."

Let's ignore the psychobabble and look at this idea of winners and losers. In games, the object is to win, which means to fulfill some arbitrary conditions defined by the rules of the game. *Because* one player or team wins, the other loses. The victory and loss are not independent events. That's why we say the Yankees *beat* the Padres in the World Series.

Writers who describe the economic process in terms of winners and losers indicate, intentionally or not, that the same zero-sum principle applies: namely, that people who make high incomes are responsible for others' making low incomes. But how can that be? Is Bill Gates the reason that some people earn only the minimum wage? Does anyone live in poverty because Sam Walton got rich?

That's not only untrue, it's *worse* than untrue. The fortunes of Gates, Walton, and anyone who earns a high income are the consequences of their having enriched a multitude of people considerably less wealthy than themselves. You have to produce things people want if you intend to get rich (unless you find a way to milk the taxpayers). Market activity is a positive-sum, or win-win, process. In a free (or free-ish) economy, the rich get richer by making the "poor" richer. If you don't believe it, ask yourself where would you rather be "poor," here or in India?

To be sure, people with acute entrepreneurial alertness or valuable skills and knowledge will do spectacularly well. By comparison, the people who lack those things will seem to be losers. But they aren't. And since there is unlimited wealth yet to be created, anyone—if

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free—can have his shot at being a "winner." Whatever is holding a particular person back, we can be sure it isn't the people who have already succeeded.

* * *

American collectivists have long wanted the government to nationalize the railroads. They finally got their wish in recent decades. As Gregory Bresiger shows, they should have been more careful about what they wished for.

What if family finances were run like the Social Security Trust Fund? William Conerly describes his imaginative method of financing his children's college education without having to give up anything.

The Academy Award for the best movie in 1998 went to *Shakespeare in Love*. The script was co-written by Tom Stoppard, whose plays have a feature that sets him apart from most of the arts world: anti-collectivism. Norman Barry looks at the philosophy that underlies Stoppard's work.

The market order has been credited for many good things. Andrew Cohen finds one more way it benefits us: it provides a foundation for friendship.

Antitrust law's interference with business efficiency has long been documented by economists and legal scholars. What gets far too little attention is its immorality and injustice. D. T. Armentano demonstrates that the law fails the test of ethics too.

Ever since historian Richard Hofstadter wrote his book *The Paranoid Tradition in American Politics*, statists have had a convenient way to smear any uncompromising advocate of individual liberty and limited government. James Bovard takes a close look at the book, the thesis, and the author.

Medical treatment presents many complex ethical issues. State intervention in health care only makes difficult matters worse. Karen Selick discusses a case from Canada.

This month marks the centenary of the birth of the late W. H. Hutt, an important and prolific free-market economist. Richard Ebeling contributes an appreciation of Hutt's long career.

Golf used to be a relaxing pastime. Then the environmentalists came along. Ray Keating explains.

Lawyers have long been jealous of their monopoly in the practice of law. George Leef describes the lengths to which the profession is willing to go to prevent people from obtaining legal advice outside approved channels.

Attempts by states to impede corporate takeovers are presented in humanitarian terms. But as Christopher Mayer explains, they are special-interest bids that undermine property rights.

The clash between academic freedom and freedom of association may seem irreconcilable—until a missing element is brought into the debate. A controversy at the University of Notre Dame prompts James Otteson's discourse on rights real and imagined.

In the columns department, Donald Boudreaux distinguishes real false consciousness from false false consciousness; Lawrence Reed remembers hard-money man James Blanchard; Doug Bandow argues for voluntary voluntarism; Dwight Lee links conservation to speculation; Mark Skousen reminds us of what Say really said; and Charles Baird reads the California legislature the riot act about compulsory unionism for professors. Andrew Morriss wonders if a hidden fist is really necessary to protect the invisible hand and decides "It Just Ain't So!"

Book reviews this month examine the federal government's welfare state for Indians, the Great Depression, the importance of property, the lives of two lucky people, and the global environmental movement.

—SHELDON RICHMAN

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Thoughts on Freedom

by Donald J. Boudreaux

True False Consciousness

A few years ago I listened to a professor from a prestigious law school speak on the modern economy. This learned scholar was baffled that people voluntarily shop at Wal-Mart and Home Depot. He asked: "Why do so many people patronize large, impersonal retailers who destroy downtowns and sell goods that destroy the human spirit? Why do consumers and workers willingly permit themselves to be oppressed by capitalism?"

His answer was one that's given with appalling frequency by many statist scholars: false consciousness. This is the notion that people act contrary to their true interests because they don't know what's good for them. Refusing to abandon juvenile notions about the horrors of private property and free markets, radical leftists instead resort to accusing the masses of collective stupidity. "Workers are falsely conscious," intoned the law professor. "Their participation in capitalist institutions and their refusal to revolt against them reflect only the awesome power of capitalism to deceive its victims."

Good heavens! Not only does capitalism oppress the body and soul, it oppresses the mind as well—so much so that its cruelly abused victims remain oblivious to the injustices visited upon them.

The Economist's Reaction

My initial response to hearing allegations of false consciousness is to dismiss the concept out of hand. People, as economists inelegantly say, are rational. They're not so stupid as to be oblivious to being abused.

But the more I reflect on the matter, the more I realize that false consciousness is real. Contrary to statist claims, however, false consciousness arises only in politics and not in the private sector.

When are you most likely to be adequately informed to make choices? When are you most likely to put forth the mental effort necessary to weigh all available information and then exercise the discipline required to make decisions that are best over the long haul? It's when you have a significant personal stake in the outcome *and* when your decision matters.

One of the great benefits of the rules of private-property rights and freedom of contract is that they oblige each decision-maker to bear the bulk of the costs—and permit each decision-maker to enjoy the bulk of the benefits—of each of his decisions. Also, by concentrating decision-making power in individuals rather than dispersing it among collectives, private property gives each individual genuine influence over the outcome of events. Private-property rights promote true, not false, consciousness.

Consider, for example, a woman who voluntarily puts aside a professional career in favor of staying home to raise her children. Many leftists explain this decision as evidence of false consciousness—as evidence that the woman is hoodwinked by the capitalist patriarchy into thinking that raising children is at least as worthy as pursing a career

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outside the home.

Nonsense. The stay-at-home mom makes her choice very carefully. After all, the woman herself bears a large portion of the benefits and costs of the decision, and her decision is decisive: it alone determines what she will do. If she chooses to pursue a career, she pursues a career; if, instead, she chooses to become a homemaker, she becomes a homemaker. These two features—bearing personal consequences and exercising a decisive ability to choose which alternative to pursue—mean that the choice made by any woman in such a situation should be presumed to be the product of rational thought and of a mind cleared of distortions.

Likewise for the other decisions that statists assert to be distorted by false consciousness: people's decisions to shop at Wal-Mart, workers' decisions to take jobs at non-unionized firms, consumers' decisions to smoke cigarettes, and women's decisions to be surrogate mothers. Each such decision has direct consequences for each decision-maker, and each such decision is firmly in the hands of the person who makes it—no one else can lawfully veto it. No other set of circumstances is as likely to prompt humans to be rational, competent, and clear-headed decision-makers.

Political False Consciousness

Compare the private decisions that statists so distrust to those decisions that statists applaud, namely, political decisions. Unlike private decisions, people make political decisions with no incentive to choose wisely. While private decisions are individualized (that is, no person must share decision-making authority), political decisions typically are made collectively, with no individual exercising decisive influence. For example—and most notoriously—no voter determines the outcome of an election. Therefore, unlike in private settings, Jones can vote for A and get B instead. This is so regardless of how passionately Jones desires A. Knowing that his vote will not swing the election, why should Jones bother to become adequately informed about the relevant issues?

In addition, and again unlike in private settings, voters (and legislators and bureaucrats) are permitted to help determine how *other* people will lead their lives. When the issue in an election is, say, whether or not Sunday alcohol sales should be allowed, each voter is given the opportunity to push the government to override the private decisions of individuals, each of whom knows best whether buying alcohol on Sunday is best for him or her.

False consciousness, then, indeed is real. But it afflicts people as voters rather than people as private decision-makers. Only in voting booths are people prone to act consistently contrary to their true interests. Again, if the outcome of an election is unaffected by how you vote—and if the bulk of the consequences of electoral outcomes fall on people other than you—you gain nothing by casting an informed and prudent ballot. Your vote, like everyone else's, will be uninformed and ill-considered.

Statists have it backwards. Capitalism doesn't foster false consciousness; politics does. The political process encourages ignorant and imprudent decisions that often run counter to the best interests of the very voters who cast their ballots in support of such decisions. One of the many splendid benefits of private property and free markets is that these institutions give each person an unambiguous incentive to make wise decisions—that is, not to suffer false consciousness. □

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THE FREEMAN
Ideas On Liberty

Markets Need a Hidden Fist?

It Just Ain't So!

When I want to jump-start my Sunday by kicking up my blood pressure a few points, I head down the driveway for the Sunday *New York Times*. Some weeks it is the front page that does the trick, other weeks the op-ed page. Few Sundays have given me a more eye-popping, artery-clearing boost, however, than March 28, 1999.

To mark the publication of *The Lexus and the Olive Tree*, his new book on globalization, *Times* foreign affairs columnist Thomas L. Friedman wrote an extraordinary cover story for that week's *New York Times Magazine*. The magazine was graced with a large photograph of a fist painted with an American flag and emblazoned with the headline: "What the World Needs Now."

The fist symbolizes Friedman's message that what the world needs is for the United States not to "be afraid to act like the almighty superpower that it is." Military strikes against Afghanistan, Iraq, Sudan, and Yugoslavia during the last 12 months suggest one might reasonably at least quibble with the notion that any significant level of fear prevents America from acting like an almighty superpower. Friedman is in no mood to quibble, however. "From supercharged financial markets to Osama bin Laden, the emerging global order demands an enforcer. That's America's new burden."

The world according to Thomas Friedman divides along two dimensions. One stretches between the Separatists and the Integrationists, those who want to wall America away from the world and those who want to plunge in. The other dimension stretches between the Social-Safety-Netters, who "believe globalization will be sustainable only if it is democratized, in both the economic and the political sense," and the Let-Them-Eat-Cakers, who want to let the poor fend for themselves. Bill Clinton, along with Friedman, is a Social-Safety-Netter/Integrationist while Ross Perot is a Let-Them-Eat-Caker/Separatist. You get the picture.

For all his experience in exotic foreign lands and hobnobbing with his big-shot friends, Friedman's problem is that he doesn't really grasp what a market is. Friedman understands that markets "generate the incomes and absorb the technologies needed to keep standards of living rising." What he doesn't seem to have a clue about is how markets do that. Friedman misses two key points.

First, markets are a means to solve what F. A. Hayek called the knowledge problem. Almost anywhere I go, I find an incredible array of goods from virtually every corner of the world. To take just one example, on my daughter's last Girl Scout camp-out we did a global product hunt and found goods from every continent except Antarctica among the (relatively) small amount of stuff we took with us. That all those things get here without our being aware of the alternative uses for those goods elsewhere in the world would be miraculous if it weren't so commonplace. The result is prosperity.

Second, markets create a sphere for human freedom that would justify their existence even if they didn't create prosperity. For many reasons societies that rely on markets are freer than societies that don't. Markets offer the potential for anonymous transactions that free us from accounting to the government for our purchases. Markets also offer us a wider variety of means to pursue our own ends than any alternative form of social organization.

No Force or Fraud

To do those things, markets require remarkably little. In the absence of force and fraud,

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markets facilitate voluntary transactions that create wealth. If I sell you one of my widgets, as long as I don't misrepresent what the widget does or hold a gun to your head, we're both better off. I've got your money, you've got my widget. Thus all a market really needs to function is protection against force and fraud. Many institutions can be used to stop force and fraud, and government is one (but only one) of the potential solutions.

Governments create problems as well as solve them (something Friedman never mentions), and we might hesitate to employ government solutions when we think the problems outweigh the benefits. Reasonable people can differ about just where the balance tips, but Friedman wants nothing to do with a comparative analysis of institutional strengths and weaknesses.

According to him, markets need supplementing for two reasons. First, we need to "democratize" globalization by compensating the losers from increased trade, because if we don't "the have-nots, know-nots, and turtles . . . will eventually produce a backlash that will choke off your country from the world." In other words, we need to bribe those who have benefited from stifling tariffs and other special-interest rules to relax their grips on our throats. As a matter of practical politics this may carry some weight; as a matter of principle it is repulsive.

Second, Friedman thinks we need to worry about those pesky foreigners who don't understand the benefits of globalization quite as well as he does. His basic idea boils down to this: "The hidden hand of the market will never work without a hidden fist—McDonald's cannot flourish without McDonnell Douglas, the builder of the F-15. And the hidden fist that keeps the world safe for Silicon Valley's technologies is called the United States Army, Air Force, Navy and Marine Corps." In other words, if it weren't for America the Global Policeman, we wouldn't have all those foreign markets for our goods.

Our armed forces certainly play a major role in the world today—although an important part of their role is subsidizing other nations by freeing them from the burden of providing for their own defense. It may even be that McDonald's gains new markets by our stationing of troops around the world. From Indonesia to Zaire/Congo and other countries where American support has propped up kleptocracies for decades, the hidden fist is a not-so-hidden dead-weight loss that impoverishes both the people of those countries and American taxpayers.

The fundamental premise of Friedman's argument is wrong: McDonald's and Intel, Microsoft and Ford—all are successful or not overseas for the same reasons they succeed or fail at home: because people around the world either want their products or do not. To the extent American companies' success depends on the flexing of our fist to coerce others into buying their products, it is the United States that is engaged in undermining markets, not other countries. If Americans heed the call of people like Thomas Friedman to start swinging our red, white, and blue fists, we are likely to find that among the first casualties are our freedom and our prosperity.

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Ideas On Liberty

Train Wreck

by Gregory Bresiger

"The power to tax involves the power to destroy," Supreme Court Chief Justice John Marshall said. So does the power to regulate.

In the decades after World War II, many American railroads fought a losing battle for survival.[1] Railroad executives had been lulled by strong performances during the war into thinking that good times were back. However, the regulatory and legislative measures were in place in the 1940s and '50s that would destroy dozens of private lines and result in the bankruptcy of the biggest survivor, Penn Central.

Critical elements in the decline of railroads were regulators' saddling them with money-losing operations as well as preventing them from pursuing new profitable ventures.[2] Another important factor was the tax financing of competitors. Those politically adept rivals that persuaded lawmakers to fund them included the aircraft, truck, and auto industries. Labor unions, backed by the government, also insisted on continuing uneconomic practices, such as overstaffed train crews and outdated pay scales. Unions also stopped modernization.[3] They exerted political power and had a say in whether some railroad consolidations took place, such as the Pennsylvania and the New York Central merger.

Governments in this era were committed to the airplane, the car, and the massive construction of highways—especially the interstate highway system that was sparked in part by national security concerns—and were hostile to railroads. Highways, almost all of them owned by governments, were given many advantages. They had dedicated sources of revenues that kept them modern and well maintained. They were untaxed, while railroads paid crushing taxes.[4] These costs for the railroads inevitably discouraged service improvements and triggered a vicious circle. When service declined, passengers and freight customers blamed the railroads, not the lawmakers or regulators. When customer numbers declined, service deteriorated further. The process was irreversible as long as the railroad industry was heavily regulated.

The struggling railroad industry was unable to maneuver. In a free market, businesses expand or contract services based on where managers see profitable opportunities. Nimble entrepreneurs move quickly to add or drop operations. In their fight for survival in the 1940s and '50s, private railroads wanted to fall back on freight service and quickly scuttle many passenger runs because in America freight had traditionally subsidized passenger service. Railroad executives wanted to raise some prices and cut others, trying to find a new formula for success. But they were often blocked by the regulators.

"Railroad management," writes historian Stephen Salsbury, "found their hands tied." He notes that most other American businesses in peacetime had the ability to set their own

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rates and determine "the nature of their service."[5] Railroads didn't have the freedoms of other businesses. If allowed to concentrate on freight service, many roads that died in the postwar era would have had a better chance to survive. Rate deregulation and the freedom to concentrate on more profitable lines were surely the keys for ailing railroads. However, state and federal lawmakers, feeling political pressures, generally blocked these survival efforts. It would take the sudden destruction of some of the biggest lines to awaken lawmakers and regulators to their mistakes, which had been repeated over generations.

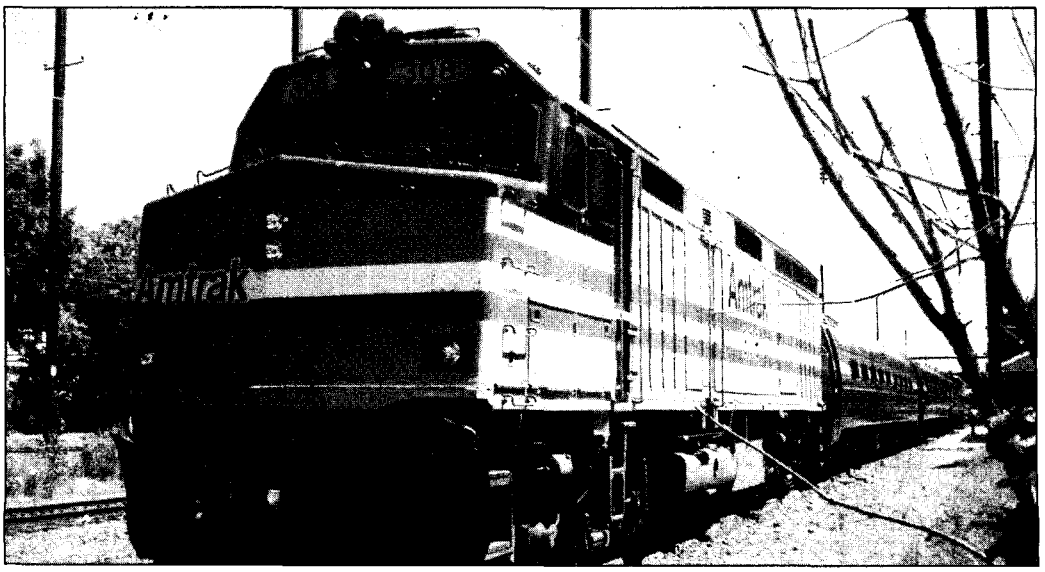
The Death of an Industry

By the late 1950s the regulatory and legislative disasters had come to fruition. Congress had pushed ahead with the Federal Highway Act of 1956 and established a highway trust fund. With up to 90 percent of a superhighway financed with federal money, state officials jumped on the bandwagon and happily paid the rest of the bill. Highways elected lots of politicians and also blinded many Americans to the drawbacks of highways, a point detailed by Robert Caro in his masterful biography of Robert Moses, *Power Broker*, a book about an unelected highway czar with almost unchecked power for 40 years in New York City. By the late 1950s Congress finally noticed what decades of oppressive regulations had accomplished.

There was no doubt that the railroads were in disrepair. "A mighty industry has come upon sick and precarious times," said Senator George Smathers in congressional hearings in 1957.[6] The chairman of the New York Central, Robert R. Young, after a concerted but futile effort to turn the railroad around, shot himself.[7] The chairman of the Pennsylvania Railroad, after detailing the road's skimpy 1956 profits of only $41 million on close to $1 billion in revenues, said government subsidies might soon be needed and that a government takeover was a possibility.[8]

The experience of the once mighty Pennsylvania, a railroad that even in the midst of the Great Depression never missed a dividend, was typical of a sick, over-regulated industry, most of whose leaders just wanted to discontinue money-losing lines in favor of operations with the prospect of earnings. Freight service was hurt by rate regulation, but passenger service was a disaster many railroad executives pleaded for permission to discontinue.

According to the Interstate Commerce Commission, American railroads lost huge amounts of money in passenger service every



COURTESY: THOMAS E. McMASTER

The debacle of the railroads is a stark reminder of what happens when government intervenes in the economy.

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year from 1945 to 1970. The industry-wide deficits reached $500 million to $600 million. Only freight and outside investments delayed the death of some railroads.

Highways, airlines, and even pork-barrel waterway projects were the favorites of federal lawmakers. Railroads were the ugly duckling. For instance, in 1958 some $10.3 billion was spent on the national highway program—expenditures that years later led to complaints that cities were drowning in automobile traffic. By contrast, in the same year, railroads paid $180 million in taxes to all levels of government.[9]

A takeover of the railroads, especially the unwanted passenger lines, was discussed at the 1957 hearings. In the 1950s and '60s the problem continued to fester. By the 1970s, the massive train wreck finally happened. Dozens of railroads failed, mostly in the east, where they were more dependent on passenger service. The biggest failure was Penn Central, but others included the Reading; Central of New Jersey, New York, New Haven & Hartford; Erie Lackawanna; Boston & Maine; Lehigh Valley; and the New York, Ontario & Western.

The Promise of Government Railroads

Government railroads had been the dream of American progressives and socialists going back to the early part of the century. Writer Frank Norris had planned a series of novels to depict the predatory nature of railroads but never completed the "Trilogy of Wheat" saga. American socialist parties had consistently advocated nationalization, as did parts of the "progressive" wing of the Republican and Democratic parties. Economic populist William Jennings Bryan advocated government ownership in the 1890s after a visit to Czarist Russia, where the railroads were owned by the state.[10] During World War I the government took over the railroads and approved huge new costs that were imposed on the owners when the roads were handed back after the war.[11]

In *The Promise of American Life* (1909), progressive Herbert Croly opposed outright

W. J. Bryan (1860–1925)

nationalization of the railroads, but argued for gradual government takeover, with the industry slowly accepting a greater role for government management. Croly expected railroad entrepreneurs to dig their own graves; a variant of Lenin's prediction that the capitalist would sell the rope to his murderers. "In return, for instance, for the benefit of government credit, granted under properly regulated conditions," Croly wrote, "the railroads might submit to the operation of some gradual system of appropriation, which would operate only in the course of several generations, and the money for which could be obtained by the taxation of railroad earnings."[12]

This was an amazing scenario, given that in 1909 railroads were one of the more profitable parts of the American economy. Still, Croly could figure a way to nationalize them. A system of "gradual" appropriation would come through intense regulation that turned investors, passengers, and business customers away from railroads. Another destructive form of regulation, a set of outdated accounting standards, had been imposed by the ICC. Those standards made it difficult for railroads to correctly price services. "I.C.C. accounting," complained one railroad executive, "was

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not only obsolete, but actually impossible to utilize effectively in controlling costs."[13]

"Be Careful What You Wish For"

When the "promise" of government railroads was achieved in the early 1970s, with the bankruptcy of the Penn Central and the takeover of service by a government corporation, socialists and other friends of government ownership would find they had achieved a Pyrrhic victory. Although Croly and Bryan, among others, had argued that government would bring coordination and better service to the rails, Americans today, after more than two decades of Amtrak, are not impressed.

Government ownership of railroads did nothing to reverse generations of disgust with passenger railroads. Amtrak, which inherited this shaky edifice of regulated railroads, found it was committed to featherbedding practices and lines that could not be discontinued because of political pressure.[14] Frequent promises to run the trains on a self-sustaining basis never were kept.

Amtrak subsidies, which tend to benefit the rich because the ridership is overwhelmingly high income, have totaled some $13 billion between 1972 and 1997.[15] Despite all the marketing efforts and government "investment," only a tiny minority of Americans use the government railroad. An Amtrak president, Roger Williams, conceded that the road's pathetic ridership numbers constitute no more "than a drop in the bucket" in the nation's transportation system.[16] Government ownership and frequent promotion and marketing of Amtrak had done nothing to persuade people to use trains again.

The problem, in a word, was politics. Unlike their transportation rivals, private railroad executives had never been good political players. For instance, in the 1970s and '80s, aircraft and automobile lobbyists effectively argued that Lockheed and Chrysler could not be allowed to fail. Government loan guarantees saved those poorly run corporations. In the Penn Central crisis, there were no loan guarantees. With the birth of Amtrak in 1971, the railroads have become a plaything of politicians, with routes shaped to fit the pressures applied by key congressmen.[17] Red ink exploded.

It was once inconceivable that the government would own and operate America's railroads; they were at the foundation of industrialization and so profitable they were a big part of the early Dow Jones Industrial Average. The debacle of the railroads is a stark reminder of what happens when government intervenes in the economy. The power to regulate is the power to control. It may not be the quickest method, but it is probably the surest way to socialism and then to ruin. □

1. See Ernest W. Williams, *The Regulation of Rail-Motor Rate Competition* (New York: McGraw Hill, 1958).

2. The Interstate Commerce Commission, in decisions in the 1930s, '40s, and '50s repeatedly prevented railroads from moving into other forms of transport such as air and water. See Donald M. Itzkoff, *Off the Track: The Decline of the Intercity Passenger Train in the United States* (Westport, Conn.: Greenwood Press, 1985), p. 49.

3. John F. Stover, *The Life and the Decline of the American Railroad* (New York: Oxford University Press, 1970), p. 217.

4. See Clarence B. Carson, *Throttling the Railroads* (Irvington-on-Hudson, N.Y.: Foundation for Economic Education, 1971), pp. 90–91.

5. Stephen Salsbury, *No Way to Run a Railroad: The Untold Story of the Penn Central Crisis* (New York: McGraw Hill, 1982), p. 49.

6. Itzkoff, p. 44.

7. Salsbury, p. 83.

8. Itzkoff, p.45.

9. Robert Sobel, *The Fallen Colossus* (New York: Weybright and Talley, 1977), p. 222.

10. Charles Morrow Wilson, *The Commoner: William Jennings Bryan* (Garden City, N.Y.: Doubleday), pp. 289–303.

11. Merle Fainsod, *Government and the American Economy* (New York: Norton, 1959), pp. 163–64. Also see Walker Hines, *The War History of American Railroads* (New Haven: Yale University Press, 1928). Hines says private railroads suffered low profits after they were handed back to private control and many managers of private roads "were intensely dissatisfied with the labor situation" (pp. 226–30).

12. Herbert Croly, *The Promise of American Life*, Arthur Schlesinger Jr., ed. (Cambridge, Mass.: Belknap Press, 1965 [1909]), p. 377.

13. Salsbury, p. 151.

14. Rodger Bradley, *Amtrak: The U.S. National Railroad Passenger Corporation* (Dorset, Mass.: Blandford Press, 1985), pp. 123–24.

15. Stephen Moore, "Amtrak Subsidies: This Is No Way to Run a Railroad," "This Just In," May 22, 1997, Cato Institute Web site, www.cato.org.

16. Itzkoff, p. 3.

17. George W. Hilton, *Amtrak* (Washington, D.C.: American Enterprise Institute, 1980), especially pp. 19–30.

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A College Fund on the Social Security Model

by William B. Conerly

Thanks to Social Security, my wife and I have discovered how to guarantee our children's college education without any sacrifice on our family's part. No, we aren't so old that our retirement checks will go directly to the university. We have an even better method: our family has adopted the Social Security model for a college trust fund.

It began when our 10- and 12-year-old children started asking us what college is like. After we described the wonders of exciting lectures, late night bull sessions, and the newfound freedom for parents, our older son asked if it cost money to go to college. What an ugly question!

Later that evening my wife and I agreed that we ought to start saving some money for the kids' college education. But how to save? As we walked around the house, we saw the crumbling infrastructure. Well, not really crumbling, but the house is in need of some fresh paint and a decent lawn irrigation system.

Then there were the pressing social needs. The spring-break ski week helps to bring us together as a family, and the evenings out with my wife are vital to maintaining a solid marriage. What more pressing social needs could there be?

My wife proposed cutting back spending on computer games, to which I agreed. But the children pointed out that the games are an investment in the future, because both boys expect one day to make millions as game designers, or at least thousands as professional game testers. Who can be against investments in education and technology? Thus, we just couldn't cut the current budget, despite the looming college crunch.

A Great Idea

The great idea came when I studied the Social Security Trust Fund. I called a family meeting to announce the establishment of the Conerly College Trust Fund.

"Where will the money come from?" my wife asked. I assured her that we would put money into the fund, but not have to cut our current spending.

"How will the trust fund be invested?" asked my older son, who has a budding interest in the stock market.

"The fund will buy Conerly Bonds," I explained, waiting for cries of understanding and adulation. The family fell silent, so I explained: "We're following the Social Security model here. The Social Security Trust Fund buys bonds issued by the U.S. government. So, the Conerly College Trust Fund will buy bonds issued by the Conerly Family."

Still no response. "You see, a bond is just a loan. The trust fund will lend the family the money we need to continue spending on our infrastructure needs, social needs, and investments in the future. That way the fam-

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ily continues to spend as ever before, while the trust fund grows to a nice fat sum. I just hope that you kids can get into a college expensive enough to use up all of our big trust fund."

My younger son, who had been silent up to now, didn't understand. "But how will we pay off the Conerly Bonds? If the family isn't able to pay for our college without the trust fund, how will the family be able to pay off the bonds when we turn 18? I don't get it."

"Don't worry, son," I told him, "there are some things that Daddy just can't explain. But I'm sure you'll be able to understand it after you've gone to college. I suggest you study economics." □

Classic Satires

Every age has its witty fable exposing the reigning fallacies, from Jonathan Swift's *Gulliver's Travels* to George Orwell's *Animal Farm.*

In 1990, ***Princess Navina Visits Malvolia*** joined this list. With its captivating diagnosis of modern political woes, it describes a strange land where politicians are duty-bound to cause harm. Hence, they devise policies to provoke social unrest, encourage idleness, and frustrate entrepreneurs.

Since that first volume, political scientist Jim Payne (who writes these tales under the pseudonym Count Nef) has produced two sequels:

– ***Princess Navina Visits Mandaat*** tells of a country where government tries to fix every problem – yet somehow nothing seems to work.

– ***Princess Navina Visits Nueva Malvolia*** (just published) is about a country where politicians are duty-bound to harm people and stay popular in order to win elections. So they follow the "strategy of good intentions," presenting their vexing schemes as compassionate programs to ensure fairness, guarantee jobs, and protect children.

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James U. Blanchard III: Champion of Liberty and Sound Money

Great movements are marked by the dedication and accomplishments of steadfast individuals who make the most of every moment, every opportunity, and every available resource. When those great men and women pass from the scene, they leave behind untold numbers of friends and followers who derive comfort from their memory and inspiration from their deeds.

Such a man was James U. Blanchard III, who died on March 20, 1999, at the age of 55. The causes to which he devoted ceaseless energy and for which his name will always be associated are liberty and sound money. Jim knew that neither one is long safe without the other, and few American businessmen in the second half of the twentieth century did as much as he to promote them both. The opening sentence of his family's formal notice of his passing summed him up well: "James U. Blanchard III was a man who accomplished much against great odds, and changed more people's lives than he ever knew."

I was privileged to know Jim Blanchard for the last 15 years of his life. For two years I served as an economist for his firm. I spoke at many of his conferences. I traveled with him to Brazil, Nicaragua, and Kenya. Though many others knew him better, it didn't take much acquaintance with him for anyone to marvel at what a man in a wheelchair can get done if he puts his mind to it. Jim was nearly killed in a tragic automobile accident at the age of 17 and was unable thereafter to walk. But if anything, his handicap only spurred him on.

Not once did I hear Jim Blanchard bemoan his physical plight. If he talked about it at all, it was to relate how sitting in a wheelchair gave him time to read. In his 20s he read voraciously. Introduced to the writings of Ayn Rand by a medical student friend, he became an unabashed defender of laissez-faire capitalism. Rand's influence on Jim is perhaps best exemplified by the name he gave his oldest son: Anthem. Jim also became a devoted reader of *The Freeman* and books by FEE's founder, Leonard Read.

In 1974, Gerald Ford signed a bill that restored the right of Americans to own gold. The real hero of that moment was Jim Blanchard, who had formed the National Committee to Legalize Gold in 1971 and spearheaded a nationwide grassroots campaign. He knew that governments don't like gold because they can't print it. He saw gold ownership as a fundamental human right, a hedge against government mismanagement of money, and the first essential step down the long road to monetary integrity.

True to his spirit, some of Jim's efforts were dramatic and unconventional. He arranged for a biplane to tow a "Legalize Gold" banner over President Nixon's 1973 inauguration. He also held press conferences around the country at which he would brandish illegal bars of gold and publicly defy federal officials to throw him in jail. These and many other sto-

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ries about Jim's colorful career can be found in his 1990 autobiography, *Confessions of a Gold Bug*.

Once gold became legal, he held his first annual investment conference in New Orleans. Expecting 250 attendees, he was stunned to see 750 show up. Now in its 26th consecutive year, Blanchard's New Orleans Investment Conference has drawn tens of thousands of individuals from all 50 states and 35 nations. Investment advice comprised most of the 25 programs Jim assembled, but he always made sure that attendees were provided a hefty dose of sound-money and free-market ideas. His speakers included Milton Friedman, F. A. Hayek, Robert Bleiberg, Walter Williams, and many other great economists. Ayn Rand's last public appearance was at a Blanchard conference.

In the meantime, Jim's original $50 investment to begin a coin business in the 1970s blossomed into a giant within the industry. When he sold the business 15 years later, it was a $115-million-a-year precious-metals and rare-coin company. In 1993, he launched a second such firm, Jefferson Coin & Bullion, Inc.; it's already one of the largest in the United States. Other business ventures he helped start were notably successful, including the Blanchard Group of Funds, which held as much as $1.7 billion under management before being sold in July 1995. He cofounded the Industry Council for Tangible Assets to combat unscrupulous business practices in the coin and bullion industry, and he helped reverse several burdensome laws and regulations that afflicted American investors.

Jim's adventurous instincts and love of liberty combined to put him on the front lines of important struggles around the world. On my return in 1986 from visiting with activists in the anti-communist underground in Poland, I went to Jim with a request. I advised him that for $5,000, pro-freedom forces in Warsaw could translate Milton Friedman's *Free to Choose* into Polish and then print and distribute hundreds of copies throughout the country. He wrote that check on the spot, and many others for similar causes behind the Iron Curtain. Not content only to fund these worthy endeavors, he often transported illicit, pro-freedom literature himself when he visited communist countries.

James U. Blanchard III

One of Jim Blanchard's favorite foreign projects was assisting anti-communist rebel forces inside war-torn Mozambique in the 1980s and early 1990s. He once sent a colleague and me on a clandestine journey inside the country to live for two weeks with the rebels in the bush and help spread a pro-freedom message. Once the war was over and Mozambique adopted policies friendly to private property and free markets, Jim pitched in to assist in reconstruction. Through Blanchard Mozambique Enterprises, he obtained a concession to rejuvenate 580,000 acres and create the largest privatized game reserve in the world. His plans for the development of lodges and resort facilities within the reserve will go forward and will in turn support the wide-scale reintroduction and protection of a number of big game animals.

Jim Blanchard overcame personal tragedy to become a powerful figure for liberty and sound money. His indomitable spirit lives on in all those who know that the noble causes to which he devoted his life require both hard work and eternal vigilance. □

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THE FREEMAN
Ideas On Liberty

Freedom and Morality in the Plays of Tom Stoppard

by Norman Barry

Most people who were dazzled by the verbal dexterity and comic genius revealed in Tom Stoppard's Oscar-winning movie, *Shakespeare in Love* (his co-writer, Marc Norman, provided the idea but every line of dialogue is quintessentially Stoppard's) do not realize that behind this extravagant frivolity is a serious, indeed political, playwright. Unusual for a British writer, Stoppard is not a man of the left; not since Noel Coward has Britain had an artist so unashamedly "right-wing." He once famously said: "I burn with no causes. I cannot say that I write with any social objectives. One writes because one loves writing."

He displayed a welcome hedonistic approach to life with his reply to a question on his first play, *Rosencrantz and Guildenstern Are Dead* (1966). "What is it all about?" he was asked. "It is about to make me a lot of money," he said. One can't imagine Harold Pinter or Arthur Miller saying that: they are far too "serious" and morally pompous.

But all this is a little disingenuous, for Stoppard is actually much more politically acute than Pinter and Miller, and he is certainly more morally mature and intelligent. He has written at length on political themes, notably in his anti-communist plays *Professional Foul* (1977) and *Every Good Boy Deserves Favour* (1977) and in his memorable dramatizations of modern philosophy, especially *Jumpers* (1972). All these works, and many others, reveal a deep commitment to morality and an intellectually, as well as theatrically, coherent rejection of that relativism which logical positivism and sterile linguistic philosophy have spawned. Above all there is a confident exposure of the dehumanizing aspects of Marxism and its relativistic anti-ethics.

Philosophy and Morality

Undergirding what Stoppard calls his conservatism in politics ("I am a conservative in politics, literature, education and theatre") is a deep and uncompromising view of the morality of freedom; a conception that could almost be called natural law. It enjoins the universal precepts of human liberty and a commitment to a minimalist equality. Equally important is the idea that ultimately morality is individualist; our fundamental values cannot be submerged in a collectivist enterprise and personal responsibility ought not to be diluted by the ersatz ethics of nationalism, ideology, or an overpowering sense of religion (though this is not to say that he has no belief in God). As he said in an interview: "However inflexible our . . . beliefs . . . they owe their existence to individual acts between individuals, which themselves are derived from an individual's intuitive sense of what is right and wrong." Correct values are simple and immediate in their appeal. As Chetwyn says in *Professional Foul*: "A good rule, I find, is to try them out

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on men much less clever than us. I often ask my son what he thinks."

The intellectuals have made morality socially untenable, and in *Jumpers* Stoppard mercilessly and comically exposes the aridity and ethically subversive nature of logical positivism ("truth is an interim judgment," says a leading character). Set in a university, the play features yellow-clad gymnasts who reproduce physically the verbal agility of the positivists ("I have seen the future and it is yellow"). They are opposed by a believer in old-fashioned moral absolutes, Professor George Moore, who points out that the acrobatic team consists of a "mixture of the more philosophical members of the university gymnastics team and the more gymnastic members of the Philosophy School." They are mainly positivists, empiricists, Benthamites, behaviourists, even lapsed Kantians, and they all make fantastic leaps of the imagination along with their gymnastic flights of physical fancy. Their political wing, the Radical Liberals, have just won an election but the positivists' victory is spoiled by the murder of their most prominent member, McFee. They soon discover that there are absolute values; a circumstance the logical positivists normally find difficult to accommodate.

Even worse, McFee had already defected before his death, having himself witnessed a murder on TV. George cannot handle the slickness of the positivists and never makes the final lecture that would restore intellectual respectability to his absolutist beliefs or secure them in a plausible notion of God. George's metaphysical meanderings seem as inconsequential as his zany wife Dotty's badly rhymed rendition of classic musical comedy numbers ("I want to spoon to my honey I'll croon love's June or July"). Both seem out of touch with modernity. The positivists, in their sanitized belligerent way, are as much responsible for the misery in the world as are the overt totalitarians. As Stoppard said, in a fine refutation of moral equivalence: "The point is not to compare one ruthless regime against another—it is to set up one against a moral standard . . . and at least my poor professor in *Jumpers* got that right."

Stoppard's first theatrical onslaught against Marxism is in the extraordinarily adroit *Travesties* (1975). Three famous people, James Joyce, Tristan Tzara (the founder of the anarchic artistic movement, Dadaism), and Lenin are all in Zurich at the same time (1917) and are involved with a British civil servant, Henry Carr, in a production of *The Importance of Being Earnest*. Here one of the targets is Lenin's materialism ("people were a sensational kind of material object") and his dehumanizing theory of art and revolution. Lenin almost sobs with admiration at hearing Beethoven's "Appassionata," but quickly relapses into an ideological harangue against Western capitalism, for example, a free press will be "free from bourgeois anarchist individualism." For him art's only role is to be the servant of the class war. This small speech constitutes an instructive vignette on the depredations of ideology.

As it turns out, Carr is the real hero of *Travesties*. He may have somewhat jejune old-world British characteristics and an odd dress sense, but he does espouse Stoppard's own beliefs in genuine artistic freedom, civil liberties, and a modest patriotism. And the important point is that these values are not negotiable; they are the universal standards by which we assess the *secondary* claims of art and politics.

The Political Plays

Stoppard was originally criticized for his alleged indifference to contemporary social issues; compared to the tedious moralizing and posturing of fashionable left-wing theatrical ranters, his retreat into cleverness, sheer verbal wizardry, and literary adroitness were a welcome relief. But two important plays in 1977—*Professional Foul* (written for TV) and *Every Good Boy Deserves Favour* (with music by André Previn)—firmly established him as an anti-communistic and pro-West writer. Stoppard had long been involved with Czech dissident movements (he was born in Czechoslovakia in 1937 but his family moved two years later) and his political views were not unknown—but he had not let them interfere with his professional work in the theatre.

Professional Foul nicely blends philosophy

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and politics. Anderson is an orthodox analytic philosopher who believes that ethics are mere conventions and not really worthy of intense speculation apart from the linguistic puzzles they might generate. He is on his way to Prague to pursue his real interest, football (soccer). There is a game on during a philosophy conference to which he has been invited to give a paper. His smug equanimity is disturbed by his meeting a former student, Pavel Hollar, who has been reduced to a cleaner's job because of his political views: he wants to have his thesis smuggled into the West. Anderson's complacent detachment is counterpoised by the moral absolutist, Chetwyn, and the conceited, amoral Marxist, McKendrick.

But circumstances, mainly the arrest of Hollar and the threat to his son, compel Anderson to engage in substantive moral issues. He changes the subject of his paper from a tame analytic enquiry about nothing important into a ringing declaration of human rights and a strident denunciation of communist tyranny. Against the subjectivism that had previously dominated his metaphysics he now says that "there is a sense of right and wrong that precedes utterance" and, in a neat paraphrase of a famous aphorism of Wittgenstein's, maintains that "whereof we cannot speak, thereof we are by no means silent." Anderson discovers that ethics are not club rules we can change at will; and at some risk to himself, as well as at the cost of missing the football game, he manages to get the thesis out of Czechoslovakia. In a gesture of supreme irony, Stoppard arranges for it to be placed in the luggage of McKendrick. There is redemption for philosophy after all.

In Every Good Boy Deserves Favour, Stoppard mercilessly parodies, with deadly intent, Soviet psychiatry. Mental hospitals are really prisons ("your opinions are your symptons") and the dissident Alexander finds himself alongside a genuinely mentally disturbed patient, also named Alexander, who thinks he is conducting an orchestra. Indeed, an aberrant triangle functions as a discordant element in the grisly order of communism, as well as allowing Stoppard to make some complex wordplay on geometrical configurations. Again, correct morality is presented through a child, Alexander's nine-year-old son Sacha ("Papa doesn't lie").

The ending of the play, in which a KGB official appears to confuse the two Alexanders so that both are released, caused some controversy at the time it was produced. It was said that Stoppard had concocted a bureaucratic bungling to effect a tame happy ending. But this was not so; it was a genuine decision by the regime. It did not want the embarrassment of continuing to persecute a famous dissident. That was the only relief available from the horrors of communism, but as Stoppard well knows, it was a poor consolation for the thousands of unknown victims of tyranny.

Both plays reflect Stoppard's concern to stress the dependency of politics on morality. As he said: "All political acts have a moral basis to them and are meaningless without it." This basis is objective, and Stoppard is disgusted by those people in comfortable situations in the West who think otherwise: Marxism and relativism "are now the quite familiar teachings of well-educated men and women holding responsible positions in respectable universities, and the thing to say about such teaching is not that it is "radical" but that it is not true. . . . It is silly. Daft. Not very bright. Moreover, it is wicked." He knows, and has articulated very well, the absurdity of Marxist economics and sociology. But what he thinks has not been expressed strongly enough is its bankrupt and dehumanizing non-morality.

Stoppard, of course, has had the inestimable advantage of not going to university, yet he is undoubtedly thinking of those contemptible fellow travelers in Soviet Studies at Ivy League universities who were defending communist regimes as late as 1990.

Chaos and Order

In addition to the political implications of his objective ethics, Stoppard is also interested in some more general philosophical themes. An abiding concern is his sometimes comic exploration of the relationship between order and chaos and the possible unreliability of conventional scientific truths. His plays themselves are often constructed out of seemingly bizarre concatenations of events. There

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is an order out there, but it often has to be imagined, and although he is conservative about science, as in everything else, he is very much aware of the inadequacy of simple linear theories. It explains his recent excursion into chaos theory in his much-acclaimed play *Arcadia* (1993). But some of the themes here are presaged in his first stage success, later made into a movie, *Rosencrantz and Guildenstern Are Dead*.

One recalls the opening scene where the two hapless Shakespearean courtiers from *Hamlet* keep spinning a coin, which keeps coming up heads. As well as effecting a mild redistribution of income this phenomenon obviously breaches the laws of probability and introduces us to what was to become a familiar Stoppard theme: uncertainty even about our most firmly held and apparently well-established convictions. The play itself is *Hamlet* seen from the wrong end of a telescope: characters come in and out of the action, they do unexpected things, and yet some semblance of order (though indescribable) is maintained. People die as they should, if not quite in the place and at the time that Shakespeare originally intended. Moviegoers will notice how Stoppard uses a similar technique in *Shakespeare in Love*; the *Romeo and Juliet* theme is a convenient peg on which to hang his invented relationship between Will Shakespeare and Viola.

The theme of order out of chaos is much more fully explored in *Arcadia* in which, at the beginning of the nineteenth century, a 13-year-old but precocious schoolgirl, Thomasina, discovers chaos theory while doing her math homework. What is described is a non-linear world that is also further exemplified by a modern character's study of the breeding of grouse: the play is set in two different time periods, nineteenth-century England and the present day. The world may not be Newtonian but it is orderly, a theme that Stoppard directly borrows from James Gleick's book *Chaos*. But in his own imaginative reconstruction of the theory, Thomasina shows how simple rules and equations, which contain apparently no random elements, can generate extraordinary complexity. Also, they have much greater explanatory power than conventional scientific theory.

Stoppard himself veers toward an understanding of the world in terms of a kind of order, though he clearly appreciates the dramatic power that chaos can create: "iterated algorithms" and other paraphernalia of modern mathematics adorn the play. The only philosophical omission in all this is the absence of any consideration of what the debate might imply for freedom. But the implication from his other work is that in politics he is an indeterminist; after all, his fierce anti-collectivism reveals a deep commitment to liberty and personal responsibility.

But *Arcadia* itself is wonderfully complex. Stoppard manages to work in a purported explanation of the mysterious disappearance of Lord Byron after a duel in 1809 alongside the pyrotechnics. The order/chaos dichotomy is further explored with the description of the changes in English social life as evinced by the transformation of the garden from classical symmetry through to "picturesque" disorder. It also contains some of Stoppard's delightfully witty comments on sex, which rival those in *Shakespeare in Love*: "Is sexual congress like love?" Thomasina asks her tutor innocently. "Oh no, it is much nicer than that," he replies knowingly.

Freedom and Literature

It is doubtful that the success of Stoppard will lead to a renaissance of "conservatism" in English literature. Already Shakespeare is being subtly removed from many courses (he was, of course, a racist and a sexist), so what chance does an avowed Thatcherite have of getting on the syllabuses of left-dominated schools? The class war and communism may be over in the regimes Stoppard has so brilliantly, and poignantly, pilloried, but they go on in their enervating ways amongst the British intelligentsia, especially in the arts.

But none of this matters. Stoppard does not work in the subsidized theatre. Nobody who has lived parasitically off the state could venerate freedom as much as he does. He would dazzle us with his verbal dexterity and theatrical innovations even if there were no political problems to worry about. And that, I am sure, would be his own Arcadia. □

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THE FREEMAN
Ideas On Liberty

Friendship and the Free Society

by Andrew I. Cohen

Private property and limited government are unrivaled in promoting personal liberty and material abundance. These institutions of a free society also beat the competition in promoting another vital personal and social good, namely, friendship.

Beneath our differences, people understand that self-respect, some wealth, a sense of personal efficacy, and maybe even a dash of luck are among the essential ingredients of a successful life. These values would still seem shallow or pointless without friendship. As Aristotle observed, "No one would choose to live without friends even if he had all the other goods." Our achievements would be emptier and our failures more unbearable without friends by our side. If friendship is then not the supreme good, it is certainly an essential one. Some of us are admittedly less social than others. The companionship that comes in meaningful friendships nevertheless seems to be a key part of the good life.

There are of course many sorts of friendships. Some persons are friends out of convenience. Perhaps our typical "acquaintances" fall into such a category. There are also friendships based merely on what two people find mutually pleasing. Both of these types of relationships help amplify our lives in various ways, but the best sorts of friendships are those where each friend cares deeply and sincerely about the other. In such complete friendships, each friend respects the other person, not as a means to his own ends, but as an end in himself.

A free society is uniquely qualified to promote the most complete friendships because it provides the institutional framework most favorable to them.

Freedom by Degrees

By a "free society," we can speak of a social and political framework with three key features: (1) private property is protected as inviolable, (2) government's role, at most, is to prevent and punish the violation of individual rights, and (3) all human relationships are voluntary. Free societies can exist in degrees. While the United States now is more free than, say, the Soviet Union under Stalin, the United States is not a completely free society. To the extent that a society counts as free, it will provide the best opportunities to nurture and sustain deep friendships.

Consider what is necessary for friendships. Two persons must share some form of good will. There needs to be a certain authenticity to any such mutual affection. This sincere good will helps to nurture a sense of trust and healthy interdependence. Trust is certainly key to building and maintaining any meaningful relationship, particularly in complete friendships where friends have a special respect for each other. But suppose you find yourself in an institutional environment where you have no choice but to interact with some-

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one else. Such a stilted setting will tend to restrict the development of any friendship. While you may still come to be friends with the other person, it is much more difficult for you to do so under such circumstances. First you must overcome some understandable mutual suspicion, but then you must fight the worry that the other merely likes you as a means to some private end.

In all political economies, individuals will sometimes find themselves having to deal with persons somewhat involuntarily. Even in a nearly free society, we may find ourselves working for, going to school with, or just sitting beside persons with whom we would rather have no contact.

Consider just one example. Most municipalities have tightly regulated local telephone monopolies. To a great extent we have no choice but to deal with our telephone repairman. His incentive to engage in gestures of good will, and our reason to show him some sincere regard, are both constrained. The repairman's "have a nice day" rings hollow when we know that we have no choice but to get our telephone service from that one company.

What a free society does is minimize the extent to which human relationships are involuntary. When we have no choice but to deal with someone, sincere good will is often hard to muster. But when individuals are free to come and go as they please and they nevertheless continue to interact with one another, they can be more certain of one another. They might then foster the trust and mutuality necessary for genuine friendships.

Take a lower-level friendship, such as one of mere convenience. We have such friendships with many persons, such as with the family doctor, the corner florist, or (if we are lucky) with car mechanics, plumbers, and carpenters. Our good will toward such persons is mostly based on what they can offer us. Genuine good will is an ingredient in any wholesome friendship. To the extent our displays of good will are sincere, it is because we recognize both the value such persons represent to us and their freedom to do as they wish.

These low-level friendships are often steppingstones toward the more complete friendships where each friend regards the other as an end in himself. People usually do not just fall into friendships. They develop their relationships, often starting out on the fragile and fleeting bases of mutual pleasure or mutual convenience. The trust that comes from freedom of choice can only help foster the good will that gets started in such rudimentary relationships. The enhanced freedom of choice characteristic of free societies also removes several impediments to the deepening of these relationships.

To say that the institutions of a free society best facilitate friendship does not mean that people didn't have good friends in, say, Maoist China. (Perhaps genuine friends were especially valuable there.) But it is far more difficult to discover, nurture, and sustain good friendships when human relationships are not entirely voluntary. What a free society does is enhance our range of freedom of choice. We have more options to select or reject. When you find yourself interacting with persons in this wider range of choice, you have better reason to believe that another's interest in you is genuine. You also have better reason to know that your own interest is genuine. The corner baker is more apt to take an interest in your life when he knows quite well that you could just as well go across the street to a competitor or bake your own muffins. You may also be more likely to feel a mutual good will toward the baker when you know that you are free not to patronize him.

Private Property

Another characteristic of a free society even more important and powerful for advancing friendships is private property.

What good is wealth, Aristotle asks rhetorically, unless we have people we care about with whom to share it? Ambiguously defined property rights and property that is not private notoriously promote waste and neglect. What matters here, however, is that when property is not private, or when it is otherwise not fully protected as private, individuals have diminished opportunities to cultivate the benevolence characteristic of genuine friendships.

There is a certain sort of kindness that helps to nurture and sustain friendships. This is the kindness manifested by freely sharing

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one's belongings with others. Unless one owns property, however, it is difficult if not impossible to show benevolence toward another. With what would one be benevolent? It is not benevolence if you grant another access to some good to which you do not have an exclusive, protected claim.

Benevolence is still a vital ingredient in bringing a relationship to a higher level, one where you spontaneously and willingly contribute to a friend's well-being. What property does is give individuals a protected sphere of control over some range of action and material goods. It sets up a divide between what is "mine" (and not yours) and what is not "mine" (but someone else's). "Property" here is not just a material thing but also includes one's freedom, one's time, and one's body. Even the materially poor man can be benevolent toward another; the poor man still owns himself and his time. The authentically benevolent man then freely waives his rights to exclude others from his goods. In doing so, he builds trust and helps to enhance his friend's welfare. Such gestures lay the groundwork for later reciprocal gestures that, in a complete friendship, come freely and without any thought to some payoff.

A free society enhances the quantity of property individuals own and protects as inviolable whatever property rights individuals enjoy. A free society thereby promotes authentic friendships by giving people added opportunities to engage in meaningful sharing. If resources move from one person to another when they do not *have to*, the recipient is better able to gauge the motives of the gesture. Indeed, the one who gave the property away is better able to be sure of his own motives. A free society does well in clearing the air in this fashion. Relationships are voluntary, and property is exchanged and redistributed only through free consent. Such gestures lay the groundwork for the most meaningful sorts of friendships.

Friendships are possible in a variety of circumstances, including in the most repressive of dictatorships. What a free society does is make the discovery, development, and sustenance of friendships of all types—particularly the most meaningful sort—easier. When free, individuals have a diminished need to second-guess the motives of others (and themselves) and they are better in a position to be generous. The freedom not to do what others may want us to do is a valuable liberty. Besides providing a sense of autonomy, that freedom is an important ingredient in expanding the opportunities for the friendships that characterize a successful human life. □

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THE FREEMAN
Ideas On Liberty

The Immorality of Antitrust Law

by D. T. Armentano

The economic inefficiencies associated with antitrust law enforcement are now generally acknowledged. The regulation of mergers and acquisitions hampers the efficient reallocation of corporate assets. The antitrust regulation of product prices and innovation (as in the recent Microsoft case) protects less-efficient business competitors and harms consumers. A century of antitrust litigation—both public and private—confirms that the laws restrain the competitive process and make economic activity less efficient.

Economic issues aside, the antitrust laws also interfere with commonsense notions of liberty and justice, as Adam Smith remarked in *The Wealth of Nations*. Pro-antitrust economists never tire of citing Smith's famous condemnation of price fixers: "people of the same trade seldom meet together . . . but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices." But those same economists rarely acknowledge that Smith immediately went on to assert that "it is impossible, indeed, to prevent such meetings, by any law which either could be executed, or would be consistent with liberty and justice." Smith, a professor of moral philosophy, was opposed to antitrust law on practical *and* ethical grounds.

How do antitrust laws interfere with liberty? All the important antitrust statutes (Sherman Act, Clayton Act, Federal Trade Commission Act) regulate or prohibit purely voluntary or consensual business activity. For example, free-market monopolization implies that consumers choose freely to support only one supplier of some product or service. Free-market prices—whether they are described as discriminatory, or predatory, or collusive—are all determined through voluntary agreement and exchange. Mergers involve voluntary acquisitions of stock or assets. Tying contracts or exclusive dealing agreements are voluntary arrangements to purchase one good and forgo the purchase of another. Since liberty (in a business context) implies the natural right to make any agreement to trade legitimately owned property on any terms mutually acceptable, then antitrust law *must* interfere with liberty.

Microsoft Case

Consider the recent Microsoft antitrust case. The software company clearly has a property right to its software. It has a property right to license (or not license) its software to any PC manufacturers on any terms mutually agreeable. It has a property right to integrate its Web browser, Internet Explorer, into its Windows 98 operating system. And it has a property right to prohibit any licensee's deleting any part of its Windows operating code. The federal government's and the states' attempts to regulate all these peaceful activities (and more) are not only irrational but

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clearly invasive of liberty and property rights as well.

The antitrust suit against Microsoft is also absurdly unjust. Microsoft is the world's premier software corporation. It earned its market position by innovating a user-friendly operating system at minimal cost to the consumer. And rather than "restrain" trade, it has licensed its operating system to hundreds of PC manufacturers here and abroad. That it competed vigorously for market share cannot be doubted; but more important, it committed neither force nor fraud in its commercial activities. Yet for all this, it was rewarded with massive competitor envy and a decade of legal harassment from both the Federal Trade Commission and the Antitrust Division of the Justice Department.

Antitrust and the Rule of Law

Substantive abuses of liberty and justice occur with antitrust enforcement because owners of property (or trustees standing in for owners) are prevented from engaging in peaceful trade and exchange. But there are also "procedural" difficulties with antitrust regulation. For example, antitrust case law is so inconsistent that it is almost impossible to know from one case to the next which business practices are illegal and which are not. "Predatory prices" are illegal, but how low must prices go (and for how long) before they become predatory? In a "monopoly" case, how will the relevant market share be determined and what percentage of the relevant market will the court determine *is* monopoly? Mergers and tying agreements are illegal if they "substantially reduce competition," but no Congress or court has ever clearly defined that expression with any precision—nor could they. Corporations and businesspeople indicted under antitrust regulation can only discover *after the fact* if they have violated antitrust law. This legal subjectivity is the major reason why those accused of antitrust violations settle their cases pretrial or with a consent decree.

The laws are also inherently discriminatory. In the Microsoft case, for example, the company was accused of entering into exclusive dealing agreements with PC manufacturers; it was also accused of refusing to allow PC manufacturers to delete the Web browser from Windows 98. Yet many of Microsoft's competitors employ similar exclusive agreements with manufacturers, and many refuse to allow a licensee to delete any part of their proprietary software code. If the court rules against Microsoft, the company will have to change those practices—but its competitors will not. They will be perfectly free to engage in the very activity explicitly forbidden to Microsoft. If you think that this is unfair (as you should), remember that this is antitrust. As the judge in the 1953 *United Shoe Machinery* case put it: it was morally acceptable for the court to impose discriminatory requirements on the defendant, United Shoe Machinery Corporation, and not on its competitors since United's unique efficiency *already* put it in a class by itself.

Over 100 years of experience with antitrust regulation confirms Adam Smith's prediction that the laws are inherently abusive of liberty and justice. When our legislators gain the moral courage to repeal the vast antitrust apparatus, both economic performance and individual liberty will be expanded greatly. □

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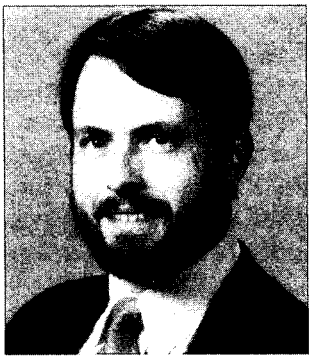

Voluntarism Should Be Voluntary

Service is good, so government-provided service must be better. That appears to be the motto of the Clinton administration. And the GOP Congress seems to agree.

Shortly after taking office, President Clinton proposed a multimillion-dollar program to hire volunteers: AmeriCorps. As with so many programs, it seemed to be animated by the best of intentions.

Service has a long and honorable history in the United States. Americans' willingness to help their neighbors was noted by Alexis de Tocqueville 150 years ago in his classic, *Democracy in America*.

And so it continues today. Three-fourths of American families donate money to charity. Some 90 million adults volunteer. The Independent Sector estimates the value of their time to approach $200 billion.

But Clinton has never been satisfied with leaving people alone, so in 1993 he suggested putting tens of thousands of "volunteers" on the federal payroll. The prospect of the federal government's becoming a national volunteer coordinator caused some hesitation even in the Democratic Congress, forcing the administration to scale back its proposal to win passage.

Since then, entirely predictable problems have beset the growing program, just as critics warned. For instance, the federal Corporation for National Service treats "public" service as inherently better than private service. Many early AmeriCorps participants were assigned to federal agencies.

The Corporation has turned service into a job that, counting the educational tuition voucher that participants receive, pays more than other entry-level employment. Although some participants undoubtedly think of themselves as "volunteers," others admit that they chose AmeriCorps as a good job option to help them get through college—which is precisely how Bill Clinton pitched the program. In this case, "serving" people through AmeriCorps is no different from flipping burgers at McDonald's, only it's done at taxpayer expense.

There is also the practical question of whether taxpayers get good value for the "service" they pay for. Supporters cite impressive statistics about trees planted and beaches restored, but even the government finds it hard to spend billions of dollars without doing some good. Moreover, the true price of such jobs, however attractive they sound, is the opportunity cost, or the value of other activities forgone.

"Public service" has a nice ring to it, but there is no reason to believe that a dollar going to it will yield more benefits than an additional dollar spent on pharmaceutical research, technological innovation, business investment, or any number of other private purposes. Indeed, the political process almost guarantees that money will be wasted. An AmeriCorps employee who is shelving books in a public library is doing no more than

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someone shelving books in a private bookstore. Nor is it necessarily a good deal to have, say, a potential doctor spend a year surveying residents, handling paperwork, or replacing light bulbs, all tasks performed by Corporation-funded volunteers.

A more subtle problem is the likely long-term effect of federal funding on real volunteer groups and their supporters. It might seem simpler to have the IRS empty people's pockets and hand money to the Corporation, which in turn gives it to charity. But it's better for individuals to send their money directly to deserving groups.

The availability of government support is likely to skew the activities of eligible organizations in an effort to obtain more aid. Moreover, turning the job of funding private groups over to the state encourages people to further abdicate their civic responsibilities. Thoughtfully choosing which charities to support, and monitoring their activities, are themselves important forms of voluntarism. But government-funded service, though implemented in the name of voluntarism, makes it less necessary for people to volunteer time and money in this fashion.

Is it realistic to expect people to volunteer more time and money? They won't if they feel no pressure to do so, and they will feel less pressure if the government not only provides public welfare programs but also funds charitable groups. More fundamentally, people should not be forced to underwrite charities in which they do not believe.

Most Republicans initially opposed AmeriCorps, and they have controlled Congress for more than four years. What has the GOP done with AmeriCorps? Hiked its budget two years in a row. Now the administration is proposing an increase of $113 million for next year, up to $585 million.

At least participation in AmeriCorps, though not the funding, is voluntary. But there are some who would make service mandatory. The state of Maryland, along with as many as 1,200 school districts nationwide, now require that students "serve" in order to graduate from high school. Although constitutional challenges to such programs have failed, Scott Bullock, an attorney with the Institute for Justice, says that lack of popular support compounded by administrative problems has slowed their spread.

Compulsory compassion is a contradiction in terms. There's even increasing evidence that it backfires. A study by Arthur Stukas (University of Northern Colorado), Mark Snyder (University of Minnesota), and E. Gil Clary (College of St. Catherine), published in *Psychological Science*, found that it makes people less likely to volunteer later in life. The authors observe that "limiting an individual's freedom to act may lead to desires to reestablish that freedom, which can be accomplished by derogating the forced activity and by refusing to perform it once the mandate has been lifted." This is not a new view. A 1991 study found that people who were first forced to donate blood were less likely to do so in the future.

Stukas, Snyder, and Clary came to a similar conclusion about broader service mandates. In a review of the effects of one mandatory school program, they found that such a requirement "may reduce interest in an activity." Ironically, the effect was "strongest for participants with greater prior experience as volunteers."

Another study examined the service inclinations of students who both faced and did not face a requirement. While mandates had little effect on students eager to serve, the less-than-eager who were under a mandate were even less inclined to serve in the future than those whose service was voluntary. Thus compulsion drives away the very people it is supposed to attract.

Stukas, Snyder, and Clary suggest "students [be given] a sense of freedom and autonomy in meeting the requirements." But that misses the point. Government should end all such requirements.

There may be no better evidence of the imperialist tendencies of politicians than their attempt to take the voluntary out of voluntarism. People should serve those around them. But they should do so because they believe it to be right, not because the government pays or forces them. □

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THE FREEMAN
Ideas On Liberty

Paranoia About Paranoia in American Politics

by James Bovard

Since the 1960s modern "liberals" have often sought to stigmatize those who distrust government as paranoid. This "diagnosis" was first popularized by Columbia University professor Richard Hofstadter (1916–1970). His widely read book *The Paranoid Style in American Politics*, first published in 1965, presented a thesis that is routinely invoked to delegitimize any criticism of government that goes beyond whining about the price the Pentagon pays for toilet seats.[1] It has been the perfect formula to dismiss and deride those who wish to limit government power and expand the sphere of individual liberty.

One of the twentieth century's most respected American historians, Hofstadter is an unrecognized early advocate of politically correct thought. His writing on political paranoia—inspired in part by the 1964 presidential campaign of conservative Barry Goldwater (who had been "diagnosed" from afar as mentally ill by a group of psychiatrists)—has encouraged people ever since to equate aversion to government intervention with pathology. Hofstadter had no such aversion: he was a former member of the Communist Party. When he joined the party in 1938, he wrote to a friend: "My fundamental reason for joining is that I don't like capitalism and want to get rid of it. I am tired of talking."[2] (Hofstadter left the party in 1939, after the Soviet Union signed the Non-Aggression Pact with Nazi Germany.)

Hofstadter's book quickly became sanctified by the academic and political establishment. He acknowledged that "the term 'paranoid style' is pejorative, and it is meant to be; the paranoid style has a greater affinity for bad causes than good."[3] Hofstadter wrote, "What interests me here is the possibility of using political rhetoric to get at political pathology." And in his view, distrust of government was among the worst political pathologies imaginable.

Hofstadter's opinion of the opponents of big government—whom he called "pseudo-conservatives"—was unmistakable: "Pseudo-conservatism is among other things a *disorder* in relation to authority, characterized by an inability to find other modes for human relationship than those of more or less complete domination or submission."[4] (Emphasis added.) He seems to be saying that wishing not to be oppressed by government proves that advocates of a limited state actually want to tyrannize their fellow citizens. The logic was Orwellian, but it played well in academia and in the media.

Hofstadter observed, "The pseudo-conservative is a man who, in the name of upholding traditional American values and institutions and defending them against *more or less fictitious dangers*, consciously or unconsciously aims at their abolition."[5] (Emphasis added.) Hofstadter believed that since the threat of government power is "fictitious," everyone

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who fears government is, by definition, mentally ill. But this diagnosis derived largely from Hofstadter's presumption that people had nothing to fear from government.

Government Spying

The pseudo-conservative, according to Hofstadter, "believes himself to be living in a world in which he is spied upon, plotted against, betrayed, and very likely destined for total ruin. He feels that his liberties have been arbitrarily and outrageously invaded."[6] At the time of Hofstadter's first article on this thesis, in *Harper's* magazine, the Federal Communications Commission was striving to torpedo "right-wing" radio.[7] A few years earlier, President John Kennedy's assistant secretary of commerce, Bill Ruder, had declared: "Our massive strategy was to use the Fairness Doctrine to challenge and harass right-wing broadcasters and hope that the challenges would be so costly to them that they would be inhibited and decide it was too expensive to continue."[8]

Also, the Internal Revenue Service had been carrying out the Ideological Organizations Audit Project to harass and destroy conservative organizations—both nonprofit and otherwise.[9] And it wasn't only "right-wingers" who were the targets of government. J. Edgar Hoover's FBI sought to subvert the civil rights movement by smearing and trying to blackmail Martin Luther King, Jr.[10] In 1962, the Kennedy administration sent FBI officials to do late-night "interviews" with steel company executives who raised steel prices higher than Kennedy approved.[11] The FBI also carried out an extensive surveillance operation at the 1964 Democratic National Convention of a civil rights challenge that President Lyndon Johnson feared would embarrass him.[12] And in 1965, the FBI did background checks on dozens of people who had sent Johnson telegrams opposing his Vietnam policy.[13]

Hofstadter even ridiculed the tendency of big-government critics to heavily document their charges. "The entire right-wing movement of our time is a parade of experts, study groups, monographs, footnotes and bibliographies," he wrote.[14] If "paranoids" offered what appeared to be evidence for their beliefs, that was simply further proof of their mental illness. Once a professor officially attaches the "paranoid" label to a group, no amount of evidence can remove it. And any consideration of the evidence proffered is unnecessary, since the people offering the evidence are known to be crazy.

Some of Hofstadter's criticisms of Goldwater as the archetype paranoid are amusing in hindsight. Hofstadter plinked at Goldwater for his call for the "prompt and final termination of the farm subsidy program."[15] It is difficult to understand why opposition to farm subsidies would be evidence of mental illness, since even wheat farmers decisively rejected federal supply controls on their farms in a national referendum in 1963.[16] Perhaps Hofstadter assumed that the wheat growers who did not want Washington micromanaging their farms were also crazy.

Hofstadter believed that no one could reasonably suspect that government would continue to grow to dangerous proportions, regardless of how rapidly it was currently expanding. Deriding some of the Goldwaterites' fears, Hofstadter remarked: "It reminds me of the people who, because they found several close parallels between the NRA [Franklin Roosevelt's National Recovery Administration] and Mussolini's corporate state, were once deeply troubled at the thought that the NRA was the beginning of American fascism."[17] Yet some of FDR's own Brain Trusters openly admired Mussolini's economic program.

Hofstadter's doctrine rested on his near-boundless faith in the wisdom and benevolence of the ruling class: "American politics is run mainly by professionals who have developed over a long span of time an ethos of their own, a kind of professional code . . . [which] for all its limitations, is an American institution embodying the practical wisdom of generations of politicians."[18] He offered no proof of the wisdom of politicians; instead, it was treated as self-evident. For Hofstadter, fear of losing one's liberty was proof of mental illness—while blind trust in politicians was merely common sense.

Hofstadter also mocked the role of guns in

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American life. In one of his last published essays, he wrote, "Every Walter Mitty has had his moment when he is Gary Cooper, stalking the streets in 'High Noon' with his gun at the ready."[19]

Ironically, Hofstadter's article in *Harper's* appeared just two months after the Gulf of Tonkin incident, which led to the congressional resolution authorizing President Lyndon Johnson to fight a war in Vietnam. But there has long been suspicion that the attack never occurred and that an earlier attack had been provoked, contrary to the government's claim. (U.S. ships had been conducting espionage in the Gulf.) Hofstadter ridiculed those who distrusted government, but the Johnson administration's lies and misrepresentations led directly to the deaths of over 58,000 Americans. If Americans of that era had not been so credulous, the Johnson administration could not have railroaded the nation into a futile war. As Army Major H. R. McMaster, author of the 1997 book *Dereliction of Duty*, argued, the failed Vietnam war strategy "was not due just to overconfidence, not due just to arrogance, this was due to deliberate deception of the American public and Congress based on the president's short-term political goals."[20]

Deadly Obsession

Although Hofstadter inspired intellectuals and political leaders to view fear of government as a dangerous pathology, it is the government's obsession over alleged paranoia that can be deadly. This is no better illustrated than by the Ruby Ridge and Waco cases, where government agents provoked and later killed civilians who were seen as threats but who had not initially committed violence. These cases were custom-made to create greater fear of the federal government.[21] Yet political leaders, including President Clinton, use these incidents, as well as the inexcusable bombing of the federal building in Oklahoma City, to smear and dismiss all principled critics of government intervention. For example, in a 1995 speech to a group of federal law enforcement officials after the Waco disaster involving the Branch Davidians, Clinton declared: "There is no moral equivalency between the disgusting acts which took place inside that compound in Waco and the efforts that law enforcement officers made to enforce the law and protect the lives of innocent people."[22] Clinton sought to frame the issue so that no one could criticize what he and the FBI did at Waco—including the gassing of dozens of adults and children—without appearing to favor child abuse.

When Hofstadter's essay was published, three-quarters of the public trusted the federal government to do the right thing most, if not all, of the time. Now only about a quarter of Americans have such trust in government.[23] According to Hofstadter's analysis, distrust of government has grown from the illness of a radical fringe to a mass psychosis of modern Americans. It's regrettable that some people believe things about the government that are not true (the existence of U.N. black helicopters in the United States, for example). But it's almost understandable, considering the routine property violations and deception that have come to light.

Yet much of the academic establishment continues to be mystified by public distrust of government. In 1997 Harvard University Press published *Why People Don't Trust Government*, in which political scientists struggled to discover why so many citizens significantly underestimated the benevolence and trustworthiness of government. The book contained no references to Waco or Ruby Ridge.

For statist academics, paranoia is everywhere. At a 1997 American Society of Criminology conference, one professor argued that among the signs of "hate group ideology" are "discussion of the Bill of Rights, especially the Second Amendment or the Federalist Papers," "discussion of military oppression, in the U.S. or elsewhere," and "discussion of the Framers of our Government."[24]

The Hofstadterian disdain for opponents of big government leads to the Catch-22 of modern statism: anyone who fears government by definition becomes unfit to judge government. Thus, the more people who fear government, the more power government needs because the populace is manifestly unsuited for self-government. Hofstadter's view of those who

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distrust government was shared by the KGB, which locked up Soviet dissidents in mental hospitals in the 1970s and 1980s.

This "fear of government-equals-insanity" doctrine is naturally popular among academics and others who prefer not to notice the screws, levers, threats, and pressure valves that government officials use to force compliance with their decrees. The notion that people's attitudes toward government are more important than whatever government actually does is the triumph of the intellectualist perspective on history. According to this view, history consists merely of ideas—some elegant, some trashy—or rather, a series of intellectual poses—some respectable, some gauche.[25]

The Founding Fathers Paranoid?

The easy diagnosis that Hofstadter championed is now embraced by historians who wish to vindicate King George III. Michael Kazin declared in 1997, "In the 1760s, colonists along the Eastern seaboard were convinced that King George III and his ministers meant to abolish their liberties and yoke their economy to the venal desires of the imperial court. The Founding Fathers made a revolution to thwart the wicked plot, one contemporary historians agree never existed."[26] Kazin's statement illustrates how contemporary statist liberals are intent not only on whitewashing today's Leviathans—but governments throughout history as well. That the British were seizing the colonists' firearms, forcibly searching their homes, revoking the rights of local governments, dragooning Americans to England to stand trial, prohibiting them from expanding to the West were, in Kazin's view, no evidence whatsoever of an attempt to destroy American liberties. Perhaps academics should also rewrite the history of the nineteenth-century clashes with Indian tribes, focusing myopically on how Indians distrusted the "Great White Father" in Washington and disregarding picayune details about the Cherokees' Trail of Tears and the massacre at Wounded Knee.

For many statists, distrust of government is the worst conceivable political offense. They are far more skeptical of citizens who distrust government than of government itself. They are willing to forget government lies, but never willing to forget or forgive citizen incredulity. For statists, the highest civic virtue apparently is a bad memory. □

1. The book was republished recently. See Richard Hofstadter, *The Paranoid Style in American Politics and Other Essays* (Cambridge, Mass.: Harvard University Press, 1996).
2. Eric Foner, "The Education of Richard Hofstadter," *Nation*, May 4, 1992, p. 597.
3. Hofstadter, p. 5.
4. Ibid., p. 58.
5. Ibid., p. 44.
6. Ibid., p. 45.
7. Adrian Cronauer, "The Transformation of Television News; the Fairness Doctrine: A Solution in Search of a Problem," *Federal Communications Law Journal*, October 1994, p. 54.
8. Thomas W. Hazlett, "The Fairness Doctrine was Never Quite Fair," *Los Angeles Times*, October 4, 1987.
9. Tom Rhodes, "Kennedys Put Tax Squeeze on Foes," *London Times*, January 29, 1997.
10. Michael J. Sniffen, "Reno Awaits King Family Reaction to Limited Review of Assassination," Associated Press, July 30, 1998.
11. "FBI's 'Political Abuses'; Full Text of Official Report," *U.S. News & World Report*, December 15, 1975, p. 61.
12. Ibid.
13. Ibid.
14. Hofstadter, p. 37.
15. Ibid., p. 98.
16. John Strohm, "The Farmers Vote for Freedom," *Reader's Digest*, September 1963, p. 95.
17. Hofstadter, p. 65.
18. Ibid., p. 102.
19. Quoted in Donald Baer, Ted Gest, and Lynn Anderson Carle, "Guns," *U.S. News & World Report*, May 8, 1989, p. 20.
20. Quoted in John Berlau, "War Planners Carried Out Strategy of Lies, Deception," *Insight*, June 9, 1997, p. 14.
21. See Alan Bock, *Ambush at Ruby Ridge: How Government Agents Set Up Randy Weaver and Took His Family Down* (New York: Berkley Books, 1996) and David Kopel and Paul Blackman, *No More Wacos: What's Wrong with Federal Law Enforcement and How to Change It* (Buffalo: Prometheus Books, 1997).
22. "Remarks to Federal Law Enforcement Officials," *Public Papers of the Presidents*, July 20, 1995, p. 1278.
23. Paul Weyrich, "Who Do Americans Trust?" *Washington Times*, May 21, 1997.
24. Quoted by Joyce Lee Malcolm during an interview with the author, August 5, 1998.
25. When I dedicated my 1995 book, *Shakedown*, "to the Victims of the State," *Entertainment Weekly* (owned by Time Inc.), September 15, 1995, ridiculed the dedication as a "paranoid conclusion."
26. Michael Kazin, "America's Paranoid Streak," *Pittsburgh Post-Gazette*, June 8, 1997.

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THE FREEMAN
Ideas On Liberty

Socialized Medicine—One Size Fits None

by Karen Selick

ONTARIO, CANADA—Andrew Sawatzky, an elderly Manitoba man whose wife went to court to fight the "Do Not Resuscitate" order placed on his hospital chart, is probably part of a fairly small minority. His wife says he wants resuscitation if he has another stroke, even though the attempt might fail or leave him permanently unconscious.

I discuss these life-and-death issues frequently with clients when preparing powers of attorney. The vast majority recoil from the thought of becoming brain-dead husks on permanent life support. Most say that if their doctors pronounce further treatment futile, they would rather accept the verdict and "die with dignity."

But what's right or wrong in cases like this can't be determined by public opinion poll. It doesn't matter what 99 people would choose, if the 100th person wants something different. The question remains: what should be done about Mr. Sawatzky?

To me, the ethical principles that should be applied are simple. Everyone should be free to conduct his life however he pleases, so long as he leaves others free to do the same. It's wrong to use force—including the force behind our court system—to bend someone to your will, except to enforce a contract the other person previously agreed to.

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The Sawatzkys, if they want heroic and possibly futile measures taken, have the right to try and procure such services. But they don't have a right to force any particular doctor, using the court as their big stick, to render those services. If their current doctors and hospital genuinely believe it's unethical to provide them, all the Sawatzkys can do is look for someone who believes otherwise.

The doctors and the hospital, on the other hand, have no right to impose their will by force on Mr. Sawatzky. For example, they can't refuse to let him leave if he finds an alternative treatment center that is willing to comply with his wishes.

The Money Issue

But there's a good chance he won't be able to find one. Now the secret, unmentionable side of the problem must finally be broached: money.

The hospital couched its objections to further treatment in humanitarian terms, but they rang hollow to me. So what if resuscitation attempts might fail? Why not just try and see? And how can it be "cruel" to treat someone when he understands the risks and still wants the treatment? People make decisions to undergo risky medical procedures every day, and hospitals don't overrule them because the operation might fail or the outcome might be tragic.

If life-support machines grew on trees, and an infinite amount of money earmarked for

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paying doctors' salaries and hospital expenses fell like manna from heaven, we would not be having this debate. Under those conditions, who would deny Mr. Sawatzky his resuscitation request? Why not give him every conceivable chance of survival if he and his wife are willing to risk the possible negative consequences? No one else would be harmed by it.

It's only because medical equipment and human labor are scarce resources that hospitals must make choices about when to use them. And it's the albatross of socialized medicine around our necks that makes us insist on a one-size-fits-all solution. If we give Mr. Sawatzky an unlimited amount of futile medical treatment, how can we ever deny it to anyone else?

Suppose Canadian law permitted the hospital to say to the Sawatzkys, "Okay, we'll furnish heroic measures, provided you pay all the costs—including the cost of all the extra years of hospitalization if he enters a permanent vegetative state." This might well make the Sawatzkys change their minds. Mrs. Sawatzky might not be willing to risk being destitute for the remainder of her life. Her husband probably wouldn't wish to see her sacrifice herself this way. But if the Sawatzkys themselves, the only people who would derive any benefit from the procedure, were unwilling to pay, why should strangers, many of whom would choose death for themselves in comparable circumstances, be forced to?

If people had a choice about what medical care they wished to buy or insure against, different people would choose different plans. Some might purchase the deluxe package—heroic measures and full life support to the bitter end. Others would buy just the basics—painkillers and a quick death. Neither choice is wrong, but the price tags would be very different.

Ironically, those who choose the basic package might end up living just as long as those who choose the deluxe. The money saved on health insurance would allow them to take more leisure, or improve other aspects of their daily lives, or relieve some of their stress, all of which might let them live longer and healthier lives.

This is not a choice the state should be making on our behalf. But socialized medicine takes our choices away—both as to how much we wish to spend, and how much we wish to receive.

There is no moral solution to the Sawatzky case, because we've been dragooned into a system where moral behavior—free, voluntary trade—has been outlawed. The remedy is not to make further bad law in each new case—it's to scrap the whole, immoral system. □

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May the Force *Not* Be With You

I'm just back from seeing *Star Wars: Episode I, The Phantom Menace* with my 11-year-old son, Ben. The space adventure, full of eye-popping special effects, lives up to expectations.

But, alas, I must report on an aspect that will be disappointing to readers of *The Freeman.* The conflict that is the focus of the movie has to do with trade, and the traders are the bad guys. The opening scroll tells the audience that the Galactic Republic has imposed a tax on trade routes to the outer star systems, but "the greedy Trade Federation" is disputing the tax.

The Trade Federation is an organization of merchants so powerful that it has a seat in the Galactic Senate. To challenge the Republic's jurisdiction over the trade routes, the Federation blockades the peaceful planet Naboo, ruled by the teen-aged Queen Amidala. It then invades Naboo, rounds up resisters, and puts them in camps. The Federation seeks to impose a treaty on the planet to legitimate the invasion and persuade the Senate to keep hands off. The Federation's objective is to demonstrate that it controls trade in the outer star systems. The queen refuses to capitulate, and the oppressed inhabitants suffer and starve.

Admittedly, this is a small part of the story. The trade dispute is barely mentioned again. It's simply Lucas's way of getting the story off the ground: the subjugated Naboo must be liberated—a job for the Jedi Knights and their Gungan allies. Lucas's ultimate purpose is to launch the Jedi career of Anakin Skywalker, who will grow up to be Darth Vader. (Whose idea was it to train that kid anyway?)

But militaristic traders? It's oxymoronic. Traders tend to be peaceful. It's hard to conduct business in the midst of combat. Napoleon dismissed capitalist England as a "nation of shopkeepers." Tocqueville and others feared that commercial virtues would drive out martial virtues. Some early Americans shared this view.

The history of trade is a history of peace and cooperation. In the late eleventh and twelfth centuries, traders rebuilt world commerce and developed the transnational "law merchant," the sophisticated, pacific commercial code that plays a role in governing trade to this day. Under that code, traders from different cultures and legal systems resolved their disputes peacefully, swiftly, and efficiently in the merchant-run courts. Form followed function, the function being the facilitating of commerce.

Legal scholar Harold Berman, in *Law and Revolution*, calls the mercantile law "capitalist law par excellence." He notes that "reciprocity of rights" was a key feature of the law. That principle refers to "the element of *equality* of burdens or benefits as between the parties to the transaction—the element, that is, of fairness of the exchange."

The law was not the product of government. Gerard Malynes wrote in 1622 that "it is customary law approved by the authority of all kingdoms and commonwealths, and not a law established by the sovereignty of any

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prince." Berman says that "the initial development of mercantile law was left largely, though not entirely, to the merchants themselves, who organized international fairs and markets, formed mercantile courts, and established mercantile offices in the new urban communities that were springing up throughout western Europe."

I can't imagine these merchants imposing an aggressive blockade on peaceful people. They'd have found other ways to dispute a tax on trade. Maybe someone should send George Lucas a copy of *Law and Revolution*.

I don't wish to single out Lucas. Trade is often misunderstood. While merchants were accused of being pacifists with no loyalty to their nations, they were also suspected of pursuing base and dishonest work. Zero-sum thinking has led people to believe that if a merchant makes a profit, the buyer must lose.

Sometimes the image of trade is ridiculous. If you've ever been to the Federal Trade Commission in Washington, D.C., you may have noticed two statues each depicting a man struggling to hold back a wild horse. The Soviet-style statues are titled "Man Tames Trade." You won't be surprised to learn that they were the winning entry in a sculpting contest during the New Deal. (The winner was the brother of Walter Lantz, creator of Woody Woodpecker.)

Deconstructing the statues is enlightening. The man represents collective Man. The wild horse represents trade. Trade is an activity of individual human beings. Thus, the statue symbolizes collective Man restraining individuals. This puts a new spin on the work of art. Since trade is consensual and occurs only when both parties expect to get more than they give—making the wild horse a poor choice of symbol—we're left with what should have been an ominous (and accurate) message from the government: the Federal Trade Commission exists to restrain free exchange for mutual advantage.

The misunderstanding of trade is on display every time the newspapers announce America's foreign trade deficit. I recall a day when the front page of my newspaper declared in dark tones a record trade deficit, while the business page of the same newspaper pointed out in an upbeat story that since the U.S. economy was doing better than foreign economies, Americans were importing more than foreigners were. Was the trade deficit good or bad news?

In fact, the United States has run both trade surpluses and deficits in good times, but usually surpluses in deep recessions and depressions. More fundamentally, the presence of a deficit or surplus is a sign that one is not looking at a full accounting of economic activity. The trade deficit refers to the merchandise account. We Americans buy more goods from foreigners than they buy from us. But merchandise is not the entirety of economic activity. Foreigners also buy services from us, and they invest here. There's no reason to worry that one account doesn't balance. Foreign merchants have a limited number of ways to dispose of the dollars they earn from sales here. They can buy American merchandise, services, or investments. If they don't want to do any of those things, they can trade their dollars for their own currency. But then the new holder of dollars faces the same choices. However you slice it, there's nothing to worry about.

If everything is counted, the books must balance. It's an accounting imperative. Someone once attempted to do a worldwide accounting of all economic activity. He found that the world was running a deficit in the hundreds of billions of dollars. Who was running the surplus? Naboo? Or were the trade statistics deficient?

While the national trade accounts must balance, that still gives a misleading picture. Nations don't trade. Individuals do, and individuals don't trade in an effort to break even. They trade to come out ahead. And barring error, they do just that.

Forget the Force. May peace and freedom be with you. □

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THE FREEMAN
Ideas On Liberty

William H. Hutt: A Centenary Appreciation

by Richard M. Ebeling

In the mid-1980s I had the good fortune to be teaching at the University of Dallas with Professor William H. Hutt as a colleague. By that time he was already in his mid-80s and held the title of "emeritus." Though stricken with an increasingly debilitating case of arthritis, Professor Hutt would be in his office most days of the week working on some article or reading the latest literature on economic theory and policy.

I would ask him to deliver one or two guest lectures in some of my classes each semester, and he almost always graciously consented. In one class I recall Hutt's starting his remarks, in a slightly stammering voice, "Most economists have their works forgotten after they're dead. I've the unique distinction in having had all my works forgotten while I'm still alive."

When Professor Hutt passed away on June 19, 1988, at the age of 88 he left behind a legacy of a dozen books and more than 50 articles.[1] During an academic writing career that began in 1926 he had been a courageous voice for free-market economics at a time when Keynesian economics and interventionist policies dominated both the economics profession and the arena of public policy.

August 3, 1999, marks the 100th birthday of William Harold Hutt, and it seems an appropriate occasion for an appreciation of some of his contributions to twentieth-century economic thought.

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Hutt was born in London to a middle-class family. He joined the Royal Flying Corps in 1916, during the First World War. He would reminisce that he had mastered the art of taking off, but he couldn't quite get the hang of landing; he said his superiors accused him of crashing more planes than the Germans were shooting down.

After the war he enrolled at the University of London and studied with the famous English economist Edwin Cannan. Lionel Robbins, who also studied with Cannan during the same years, recalled that "Cannan was a great teacher. He was a fine economist; he gave one a sense of the sweep and the power of the subject and its relevance to human happiness. . . . I do not know anyone who sat under Cannan in those years who was not powerfully affected by his teaching."[2] What Cannan instilled in Hutt and others who studied with him was a deep appreciation of the miracle of the market economy, which integrated a multitude of global participants in a spontaneous process of coordination.

On to Cape Town

After graduating he worked for four years for Sir Ernest Benn, one of the leading British advocates of laissez-faire economics in the first half of the twentieth century and operator of the Benn publishing house. For part of this time Hutt served as manager of Benn's Individualist Book Club. In 1928 Hutt received a teaching appointment at the University of

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Cape Town in South Africa, a position he held until the 1970s, when he moved to the United States, holding visiting positions at several prestigious institutions of higher learning until his appointment at the University of Dallas.

His first published work was an essay on "The Factory System of the Early Nineteenth Century," which appeared in *Economica* (March 1926) and was later reprinted in *Capitalism and the Historians*, edited by F. A. Hayek.[3] He argued that the standard interpretations of early factory life in England during the industrial revolution had often been misrepresentations or exaggerations. He demonstrated that work in the developing manufacturing centers of England had created rising standards of living and improved opportunities for children and women compared to earlier rural life.

His first major contribution was the 1930 book *The Theory of Collective Bargaining*. Hutt challenged one of the most fundamental assumptions underlying interventionist theory: that the individual worker was at an inherent disadvantage in labor negotiations, a disadvantage that could be redressed only through collective bargaining over wages. It was a theme he came back to four decades later in his 1973 work, *The Strike-Threat System: The Economic Consequences of Collective Bargaining*. He explained that supply and demand set wages in the marketplace just as they set all other prices. Wages formed on an open, competitive market assure that no worker is or can be exploited. What determines any worker's worth is the training, experience, and productive capabilities he brings to the marketplace and the value that prospective employers see in those talents and abilities. No employer will offer the worker more than the extra value he is expected to bring to the enterprise. And competition among employers assures that the wage reflects the most highly valued use of his abilities.

Coercive Bargaining

Collective bargaining, Hutt argued, can force wages above market-determined levels only through the use of coercion. Although trade unions threaten to (and do) shut down enterprises through strikes to force employers to acquiesce in their wage demands, wages pushed above market-clearing levels cause some workers who would have found employment to be priced out of the market.

Union apologists have often argued that through collective bargaining and strike threats, organized labor can capture a greater portion of the total revenues earned in an industry at the expense of employers. Hutt demonstrated that at most this tactic can only work in the short run. In the longer run, as profits in an industry fall owing to union wage increases, entrepreneurs will shift to industries where profits are higher. Thus fewer employers will remain in union-dominated industries, potentially reducing total employment opportunities there.

This led Hutt to make the useful distinction between what he called "natural" and "contrived" scarcities.[4] The fundamental problem in society is that means are scarcer than ends. This scarcity is "natural"—an inescapable part of the human condition. The task of the market, through the competitive forces of supply and demand, is to determine how the scarce means of production (including labor) are to be allocated among their alternative productive uses. Scarcities become "contrived," however, when owners of means attempt to withhold part of their supply by politically restricting entry and competition. A special-interest group might do this to boost its income.

Contrived scarcities frustrate what Hutt was the first to call "consumers' sovereignty."[5] In a free market the demands of consumers determine what gets produced and therefore, indirectly, the allocation of naturally scarce resources among their competing uses. When the allocation of resources reflects consumer demand, they can be said to have been fully and properly applied to serve the interests of consumers. The wishes of consumers have been made "sovereign." Politically contrived scarcities frustrate consumers either by withholding some of a resource or by allocating it to a less highly valued use.

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Colliding with Keynes

Hutt's criticisms of collective bargaining, strike threats, and the dangers from contrived scarcities meant that beginning in the 1930s he was on a collision course with the emerging Keynesian Revolution in economic thinking. In 1936, Cambridge economist John Maynard Keynes published *The General Theory of Employment, Interest and Money*. He argued that the Great Depression had demonstrated that the market economy could not always employ everyone willing to work at prevailing wages because aggregate demand could be too low. Government would have to fill the gap by increasing its own demand for what the economy produced.

Hutt's first challenge to Keynes came with his 1939 book, *The Theory of Idle Resources*, in which he asked the most obvious question: why would a resource or a worker be unemployed? He responded that workers might be unemployed when: (a) no one has any use for their services; (b) employment opportunities are seasonal and it pays for workers to be idle part of the year; (c) workers won't move to where jobs are, or won't accept the prevailing wages for their skills, or prefer leisure, or have their idleness subsidized; (d) a union pushes wages above market levels and a barrier or incentive prevents the unemployed workers from moving to other jobs; or (e) workers withhold their labor because they are unwilling to accept pay cuts when the demand for their services has fallen.

The crux of the unemployment problem during the Great Depression, Hutt argued, was labor unions' often aggressive resistance to pay cuts in the face of declining demand for various goods and services. The massive unemployment of the 1930s, therefore, was the result of "contrived" scarcities created by government and special-interest groups.

Despite criticisms such as Hutt's, Keynesian economics dominated both economic theory and policy for the four decades after the Second World War. Yet even during the zenith of Keynesianism, William Hutt continued to challenge what was then known as the "New Economics." In a series of articles, such as "The Significance of Price Flexibility,"[6] and in several books, *Keynesianism: Retrospect and Prospect* (1963), *A Rehabilitation of Say's Law* (1974), and *The Keynesian Episode: A Reassessment* (1979), he attacked the fundamental premises of the Keynesian approach.

He argued that Keynes was wrong when he asserted that the classical and free-market economists who preceded him had no theory to explain massive and prolonged unemployment. Hutt said that the economists before Keynes had never claimed that unemployment was impossible or unexplainable. They clearly understood that the selling of goods and labor depended on prices that would find willing buyers. He quoted his old teacher, Edwin Cannan, who had pointed out in 1933 that "General unemployment appears when asking too much is a general phenomenon."[7]

This led Hutt to restate and defend Say's Law. He argued that Keynes's definition, "supply creates its own demand,"[8] is a distortion of its actual meaning. Jean-Baptiste Say and other nineteenth-century classical economists pointed out that people produce only because they wish to consume. What they don't consume they trade for what others have produced. Every offer of supply therefore indicates a demand. Goods of course are typically bought with and sold for money. Unless individuals offer their goods at prices that others are willing to pay and that earn the money they desire, they will be unable to demand what others are selling.

Seen from this angle, Hutt argued that the massive unemployment of the 1930s was not the result of "aggregate demand" being too low, but of prices for goods and labor being too high. Furthermore, these prices created conditions for a cumulative contraction of production and employment. Whenever "inappropriate pricing" results in unsold supplies, Hutt said, the owners of those supplies are less able to demand goods from others. If this second group of suppliers also keeps their prices and wages too high, they also will experience unemployment. The process will repeat itself, widening the circle of unsold goods and unemployed workers.

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Flexible Prices and Wages

At the same time, Hutt explained, any lowering of these prices and wages helps release withheld supplies and bring workers back to their jobs. The re-employed workers could then demand goods on the market. Thus flexible prices and wages, adjusting to changing market conditions, would always tend to assure full employment in the economy.

Written during the high watermark of Keynesian economics, Hutt's arguments were often either ignored or rejected as being politically out of step with the times. Yet, this never dissuaded him from defending what he considered to be logically sound and true. In 1936 Hutt published a book titled *Economists and the Public*, in which he insisted that only by ignoring the politically fashionable and expedient could an economist claim to speak with objectivity. The economist's task was to explain the workings of the market process and the consequences that would result from intervention, regulation, and control. Politicians may have to compromise, but not economists. The laws of supply and demand operate regardless of ideological whims and wishes. He defended this position again in *Politically Impossible . . .?* (1971).

As if to illustrate this principle of integrity, in 1964 Hutt published *The Economics of the Colour Bar*, a pro-capitalist challenge to apartheid in South Africa.[9] He showed that race-based government intervention in the economy was bad for both blacks and whites. The book caused a firestorm of controversy and even threatened Hutt's position in South Africa for a time.

Since his death in 1988, traditional Keynesian economics has been eclipsed, union power is no longer viewed as sacrosanct, apartheid has ended in South Africa, and there has been a renewed appreciation and understanding of the free market. To no small extent this has been due to the ideas and principled stance of William H. Hutt. For those of us who had the privilege to know him, his greatest influence was through the wit and humor with which he made his case. Students loved him. In his last years he had to get around the University of Dallas campus in a wheelchair. Some of my students then came up with the following riddle: Why does Professor Hutt always use a wheelchair? Because he hates Keynes.

When told this, Hutt smiled and nodded his approval. □

1. See Richard M. Ebeling, "William H. Hutt, 1899–1988," *The Freeman*, October 1988, pp. 400–401.

2. Lionel Robbins, *Autobiography of an Economist* (New York: St. Martin's Press, 1971), pp. 85–86. Also see my review of *Collected Works of Edwin Cannan* in *Freedom Daily*, August 1998, pp. 41–44.

3. F. A. Hayek, ed., *Capitalism and the Historians* (Chicago: University of Chicago Press, 1954), pp. 160–188; see also W. H. Hutt, "The Poor Who Were with Us," *Encounter*, November 1972, pp. 84–90.

4. W. H. Hutt, "Natural and Contrived Scarcities," *South African Journal of Economics*, September 1935, pp. 345–353.

5. W. H. Hutt, "Economic Method and the Concept of Competition," *South African Journal of Economics* March 1934, pp. 3–23; *Economists and the Public: A Study of Competition and Opinion* (London: Jonathan Cape, 1936), pp. 257–72; "The Concept of Consumers' Sovereignty," *Economic Journal*, March 1940, pp. 66–77.

6. W. H. Hutt, "The Significance of Price Flexibility" (1954), reprinted in Svetozar Pejovich and David Klingaman, eds., *Individual Freedom: Selected Works of William H. Hutt* (Westport, Conn.: Greenwood Press, 1975), pp. 130–46.

7. Edwin Cannan, *Economic Scares* (1933), reprinted in Alan Ebenstein, ed., *Collected Works of Edwin Cannan*, vol. VII (London: Routledge/Thoemmes Press, 1997), p. 38.

8. John Maynard Keynes, *The General Theory of Employment, Interest and Money* (New York: Macmillan, 1973 [1936]), p. 18. For a detailed criticism of Keynes's misunderstanding of Say's Law in the context of what the classical economists really said, see Steven Kates, *Say's Law and the Keynesian Revolution: How Macroeconomic Theory Lost Its Way* (Northhampton, Mass.: Edward Elgar, 1998). Also see Mark Skousen's column in this issue of *The Freeman*.

9. The book is available once again through the Free Market Foundation, Johannesburg, South Africa.

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THE FREEMAN
Ideas On Liberty

Greens Against Greens

by Raymond J. Keating

Playing golf on Long Island can be a glorious experience. On this sliver of land in the Atlantic Ocean, golfers are treated to various types of golf, from playing often windswept layouts along the north and south shores, to more inland, wooded, and hilly courses.

Long Island also has a fairly impressive history of professional golf. In addition to hosting an annual Senior PGA Tour stop—the Lightpath (formerly Northville) Long Island Classic at the Meadow Brook Club—Long Island courses have hosted six U.S. Opens and five PGA Championships. Most recently the U.S. Open stopped at Shinnecock Hills Golf Club in 1985 and 1996. The Open will return to Long Island in 2002 on the Black Course at Bethpage State Park, and possibly again at Shinnecock in 2004.

Naturally, Long Island is overflowing with amateur golfers, from occasional duffers to the more serious players.

However, all is not serene on Long Island's greens. Courses are crammed with folks hooking and slicing down the fairway. Waiting times to tee off can run into the hours any day of the week, and many facilities have reservation systems, which means that the spur-of-the-moment round of golf virtually has become a blessing of the past.

Other than at private membership clubs, it is not unusual for a weekend round of golf to stretch out to more than six hours. At such times, even the most passionate lovers of the game become annoyed, with the glory of Long Island golf decaying into one of those headaches usually reserved for errant drives and three-putts.

Of course, slow play and long lines are market signals to build more golf courses. And some golf entrepreneurs are trying to do just that on Long Island. However, in addition to onerous property taxes, they face hazards from local environmentalists and NIMBY (not-in-my-backyard) types who possess absolutely no respect for private property. Even though these crusaders are relatively small in numbers, they are hyperactive and hold considerable sway over lazy, easily frightened politicians. The stories of their assaults on property owners—including those trying to build golf courses—are numerous.

From Racing to Golf

For example, the Bridgehampton Race Circuit had served as a home to big-time auto racing for decades. However, as homes started to spring up around the racetrack where drivers like Mario Andretti competed, complaints about noise increased. Town officials ignored the obvious fact that the raceway was there first and tightened government noise restrictions to the point where the racing left Long Island.

The track owner, Robert M. Rubin, then decided to build a golf course and 20 estate

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homes, even agreeing to set aside some 150 acres as open space. For greedy environmentalists that was not enough. They wanted it all, and they tried to force state and local taxpayers to buy the land even though the landowner declared he had no intention of selling. After years of battling, the golf-course project seems to be moving ahead—an increasingly rare victory for property rights on Long Island.

Brother and sister Barry Bistrian and Bonnie Krupinski in tony East Hampton saw their dream of a golf course finally coming to fruition in 1999. Their environmental battle with local officials and activists lasted over two decades.

Bill Coore and two-time Masters champion Ben Crenshaw are the course designers of the East Hampton Golf Club. Small hills mark the front nine, with more of a links style on the back nine. Krupinski notes that the course was laid out with environmental concerns in mind, using native grass, limiting high-maintenance grass mostly to tees and greens, and building with minimal earth movement. As for other benefits to the community, C.J. McDaniels of Crenshaw Golf, which will manage the course, notes that a caddie program for local kids is being established.

The family did not originally plan for a members-only club, but were forced to go that route because local zoning does not allow courses open to the public in residential areas. After all, the local NIMBY crowd couldn't have golf riffraff from other parts of Long Island invading the very exclusive East Hampton area. The family just wasn't up to a battle on that zoning issue.

Meanwhile, in Baiting Hollow, Long Island, the 117-year-old Talmage family farm has grown so efficient in recent years that land was freed up for a 36-hole golf resort also to be designed by Coore & Crenshaw. The courses would be located in a breathtaking spot overlooking the Long Island Sound.

As news got out about the proposal, local environmentalists sprang into action. They hurled all sorts of irresponsible accusations about environmental catastrophe at the project, with little regard for the truth. For example, Long Island's leading environmental activist, Richard Amper, head of the Long Island Pine Barrens Society, claimed in a 1998 *Newsday* op-ed that the course would destroy a rare dwarf beech forest. But as family spokesman Bill Talmage and I walked and climbed his land, he showed me that the golf course will never disturb this thicket. Indeed, he and his family would never want to ruin the beautiful spot where land meets sea. The Talmage family is rooted in a deep respect for their land. They clearly want to do the right thing for the local environment and economy. They are active members of their community who have no plans of moving. Bill Talmage says he wants his grandchildren to be able to say that Grandpa Bill was pretty smart to build this beautiful golf resort, in which the family is a partner.

To build the rhetorical case against the golf project, Amper classified the area as the "Grandifolia Sandhills," saying this was "one of Long Island's most environmentally sensitive areas." While the name of some of the beech trees is in fact "fagus grandifolia," Talmage says that the "Grandifolia Sandhills" classification is a "complete fabrication." I asked folks at the National Wilderness Institute: they never heard of it. And I couldn't find any reference to it when I did various literature searches.

In addition, the project's opponents said the golf courses would ruin rare migrating sand dunes. In fact, as Talmage points out, beyond the normal changes that nature brings, old trees and massive boulders on the land clearly show that the area is anything but migrating.

Normally, local command-and-control environmentalists and NIMBYists would steamroll the land owner and get him to acquiesce. However, Talmage is in the horticulture business himself, cultivating native, wetland, and erosion-control plants, and is knowledgeable about the issues at hand. He has easily debunked the numerous charges made by his opponents.

Tragically, though, the pseudo-science of Long Island enviro-politics captured many easily duped local politicians, and as a result the resort plan probably will give way to one

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golf course, some residential homes, and more greenhouses. Talmage says this accomplishes nothing for the local environment, and winds up being less of a benefit for the local economy.

Big-Government Reactionaries

But that does not matter to these local activists. For the most part, these folks cloak their opposition to change in a concern for the environment. More accurately, they can be categorized as big-government reactionaries. They don't like economic change. One of their costly schemes is to have state and local government buy the development rights of farms on Long Island's east end, so that the land will always stay agricultural—even as the cost of farming on Long Island becomes more and more prohibitive. The landowners actually have little choice in the end; once their land is placed in the cross hairs of local environmentalists and politicians, it becomes costly to do anything else with it.

The local reactionaries want to be Long Island's feudal lords, deciding what can and cannot be done with the land. And golf courses are decreed not to be an option. Indeed, Amper has condemned golf courses as "the biggest drinking-water polluters on Long Island." Groundwater serves as the primary excuse to oppose almost all golf courses, especially on the east end of the island. (The same reason is used to oppose houses, buildings, and most everything else you can think of linked to mankind and civilization.) Indeed, "groundwater protection" has been invoked by opponents of golf course projects in Bridgehampton, East Hampton, and Baiting Hollow.

The environmental activists say that as much land as possible must be left in or revert to a wild state. This demand conveniently ties into their desire to have no more people move into the area and to preserve their way of life.

When I asked about the science undergirding his claim about golf courses and pollution, Amper briefly mentioned pesticides, but then referred me to others for explanation. Speaking with and listening to many of Long Island's leading environmentalists, I quickly discovered they cannot back up their grandiose statements.

Amper's hyperbole is contradicted by more sober assessments. A few years ago hydrologist Robert LaMonica told the local county legislature, "There is no reason ever to use water supply as a zoning tool or a restriction on economic development." And several other local experts note that golf courses are no more polluting than homes or agriculture.

In addition, the protectors of the Long Island pine barrens—essentially large, rather ugly tracts of land made up of little, scruffy pine trees—assert that these areas must be protected because that is where Long Island gets its drinking water. This notion has been the main driving force behind draconian restrictions on land use and the millions of taxpayer dollars spent to buy acres and acres of land. However, knowledgeable experts disagree. Donald Middleton, an environmental consultant and a former regional director of the New York State Department of Environmental Conservation, was even quoted as saying: "The Long Island aquifer system is not one continuous and interconnecting underground reservoir. Contamination in one part does not extend throughout the entire system. . . . Long Islanders do not get their drinking water from the pine barrens and they never will."

Why Worry?

A mid-1980s scientific study of golf courses atop sandy, permeable soil in Cape Cod—similar to what you might find on Long Island—reported "little cause for concern about use of currently registered pesticides." As reported in the September–October 1993 issue of *Audubon*, the study examined four mature golf courses and looked for about 17 different pesticides in soil and groundwater samples. For good measure, many golf-course managers are choosing organic management, minimizing the use of chemicals, and working to preserve local flora and fauna. The United States Golf Association also does research and offers advice on sound environmental golf practices. One might expect local environmentalists to work with golf course owners, but too often that simply is not the case.

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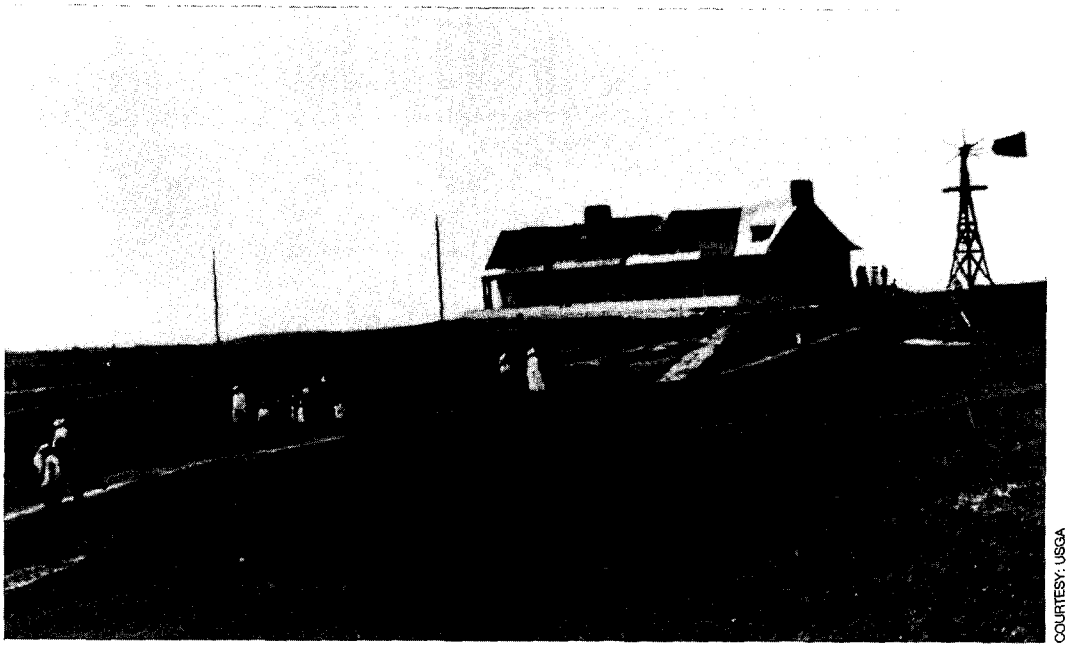

COURTESY: USGA

Long Island's Shinnecock Hills early in this century.

About those opposing his golf plans, the owner of the Bridgehampton land, Robert M. Rubin, told the *New York Times* last year, "These people are the lunatic fringe." He continued, "Nobody is more worried about the water than I am. I've spent six figures analyzing the situation, and I'm comfortable with it." The *Times* also reported that a professor of turf grass science and a hydrogeological consulting firm hired by the town to evaluate Rubin's plans "deemed the golf proposal plan to be basically in compliance with the various restrictions on the site."

Undaunted by facts and private property rights, the warriors against golf courses continue to wage their battle on Long Island, aided by politicians unwilling to do the hard work of discovering the truth. And even when property owners come out victorious in the end, the costs in time and resources are tremendous.

What does this all mean for Long Island golfers such as myself? Naturally, if golf entrepreneurs are stymied, golfers will suffer. Limited tee times, long lines, and slow play will remain an aggravating part of the game.

Under these conditions, how am I supposed to get my game in gear for the Senior PGA Tour by the time I turn 50 in about a decade and a half? My wife says I'm dreaming, and she's probably right. But as a golfer ready to fork over greens fees, at least I could have my dreams shattered by my own abysmal putting, rather than by a bunch of reactionary environmentalists and NIMBYists. □

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THE FREEMAN
Ideas On Liberty

Banned in Austin

by George C. Leef

People love competition. It is wonderful to have others trying to outdo rivals in finding new and better ways to serve you, giving you more alternatives at lower prices. But people also hate competition. How annoying it is to have others trying to take away "your" customers just so they can make money. What nerve!

In our statist era, people have frequently turned to government seeking to hinder or even eliminate the competition they don't like. Those who are adept at manipulating the political system often succeed, getting statutes or regulations that take from others the freedom to compete. Not surprisingly, the legal profession is particularly good at working the system. Competition-suppressing measures have given licensed attorneys a corner on the legal-services market for decades. But one of the legal profession's most recent attacks against competition is especially noteworthy because it involves nothing less than the First Amendment.

The high cost of hiring a lawyer has led to a growing industry in self-help legal books and software. Companies now market books and computer programs that enable anyone to get answers to legal questions and create legal documents at a price far lower than contracting for the services of a lawyer. Non-lawyers welcome self-help publications because such materials increase the range of options open to them when they need legal assistance. On the other hand, many lawyers fear that they will begin to lose "their" clients to those awful books and CD-ROMs. Time for action—but how do you keep books and software off the market in a nation ostensibly committed to a free press?

A Suit Is Pressed

People always look for the least costly way of accomplishing their objectives—and that includes nefarious objectives like stifling competition. For lawyers, the least costly way of stopping competition is to do what they do best. They file a lawsuit.

In 1998 the State Bar of Texas instituted suits against Nolo Press, a Berkeley, California, firm that publishes an array of self-help books and computer programs, and Parsons Technology, an Iowa-based firm that sells computer software including several legal self-help titles. The ground for the suits? The State Bar argued that the firms had violated the Texas statute prohibiting "unauthorized practice of law (UPL)." This law, some version of which is in effect in every state except Arizona, restricts "the practice of law" to licensed attorneys. It is the equivalent of a "No Trespassing" sign around the entire field of legal services.

Individuals have the right to do their own legal work, whether it's drafting their will or defending against criminal charges in court. Publications that merely inform people about the law are legally unobjectionable—law

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libraries are, after all, open to the public—but they are also less beneficial to laymen than books or software that actually help them navigate through the shoals of the law. Because the Nolo and Parsons products stepped over the line by actually helping individuals, the unauthorized-practice watchdogs argued that they had broken the law.

To briefly recapitulate the argument against UPL prohibitions, they are neither necessary nor sufficient to protect consumers against incompetent or dishonest legal practitioners. A free market backed by the possibility of legal remedies for fraud, negligence, or breach of contract is the optimal system for deterring harm to consumers. It has no need for coercive legal action against any peaceful individual or First Amendment-weakening lawsuits such as the Texas Bar Association's.

But those considerations don't matter when the objective is something as vital as preserving billable hours. The UPL Committee's case against Nolo was argued before the Texas Supreme Court in October 1998 and at the time of this writing no decision had been rendered. However, the suit against Parsons ended in victory when in January 1999, federal district Judge Barefoot Sanders granted the bar's motion for summary judgment. That means he saw no need for a trial; on the facts as presented, Parsons must necessarily lose. Judge Sanders followed up that ruling with a ban against the sale of Parsons "Quicken Family Lawyer" software within the state.

What is frightening about this ruling (which may, of course, be reversed on appeal—or stand as a precedent for future attacks against the freedom to produce and sell informational products) is that it undermines one of the cornerstones of a free society. Let's analyze the decision.

First, there was no showing of any specific flaw in the software that had or even might cause a user to make a legal error and suffer some detriment. Quicken Family Lawyer was written by attorneys who specialize in the areas of law covered, and checked for state-to-state variations. Parsons does not want either a bad reputation or a lawsuit from an individual who made some legal blunder because he followed its software. But care in preparation and lack of harm are no defense. Parsons Technology is not licensed to practice law in Texas (only individuals who graduate from law school and pass the bar exam can be), and that settles it.

Second, Judge Sanders brushed off the company's First Amendment arguments. The First Amendment prohibits Congress from enacting any law that abridges freedom of the press, and decades ago the Supreme Court ruled that this restraint on government power also applies to the states and their instrumentalities. In First Amendment cases, the decision almost always turns on the "level of scrutiny" the court will apply. If the judge decides that the case merits "strict scrutiny," then the government's restriction will be struck down unless the state can show that its action is the least intrusive possible means of accomplishing some "compelling state interest." (Never mind that the First Amendment does not read: "Congress shall make no law abridging freedom of the press unless. . . .") Statutes and regulations that are given "strict scrutiny" almost never survive. On the other hand, if the court decides that the case does not warrant "strict scrutiny," then all the government needs to do to prevail is to show that there is some rational basis for thinking that the law furthers some "important" (or similar adjective) state interest. (Again, never mind that the Constitution draws no such distinctions.)

Content Neutrality

Judge Sanders stated that strict scrutiny would not apply because the restriction sought by the Texas State Bar on freedom of the press was "content neutral." That is, the state was not trying to suppress knowledge or ideas, but merely limiting who was allowed to convey particular knowledge and ideas. In First Amendment jurisprudence, "content neutrality" renders restrictions on freedom of speech or press constitutionally trivial, so the government needs only to meet the easy "rational basis" test in order to prevail. Judge Sanders concluded that the state's "substantial interest" in "eradicating unauthorized practice of law" was justification enough.

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The notion that "the state," an abstract entity, can have any interests at all is worthy of debate, but that is a question for another time. Let us ask whether there is in fact some "substantial" public benefit to be achieved in eradicating UPL. Is it something heinous that belongs in the same league as, say, lynching or typhoid fever? Certainly not. What the bar calls "unauthorized" practice is simply a voluntary market transaction. Transactions between consumers and legal practitioners deemed unauthorized by the state turn out satisfactorily as frequently as do transactions between consumers and licensed attorneys. That is one lesson from the free market in legal services that exists in Arizona. The public interest is no more served by eradicating UPL (assuming that the law could do so) than it would be in eradicating, say, unauthorized lawn mowing.

If the state has an interest in the market for legal services at all, it is to maximize access to competent, affordable assistance. That is done not by placing arbitrary restraints on entry into the market, but by establishing the conditions that allow the market to function unhampered. Sadly, public policy is usually made by people who have little or no understanding of economics.

Note also that there are noncoercive means of accomplishing whatever legitimate concerns the State Bar might have, a point that Judge Sanders did not bother with because of his conclusion that the UPL statute was content neutral. (Is it? Texas lawyers evidently have no interest in publishing legal self-help materials, so in saying that only they are allowed to publish something they don't want to publish, the state is in effect suppressing the transmission of knowledge and ideas.) Rather than seeking an authoritarian ban, why couldn't the Texas Bar carefully analyze Quicken Family Lawyer for problems and then bring them to the attention of Parsons? Or lawyers could find QFL users with genuine reasons to complain about its quality and then sue. There is no justification for banning this (or any) product from the market and depriving many people of its benefits just because it might not be perfect for everyone.

Perhaps Parsons will win a reversal on appeal. We should hope so. As it stands, the decision to ban self-help legal software in Texas is a stab wound to the First Amendment, a blow to consumers (especially poorer ones for whom low-cost alternatives are a great boon), and an encouragement to bar associations and other special-interest groups to turn to government whenever they see competition they want to eradicate. □

The *Freeman* Goes Back to School

Our September issue features articles on parental responsibility, vouchers, "School-to-Work," student indoctrination, and rising college costs.

Plus: the 50th Anniversary of the publication of Ludwig von Mises's *Human Action*.

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Economics

Conservation and Speculation

I often ask my students, "How many of you are in favor of conservation?" Except for those who are asleep, every hand goes up. I then ask, "How many of you are in favor of speculators?" and almost no one raises his hand. The students see conservation as a noble activity that prevents people from squandering resources now to insure that adequate quantities will be available in the future. On the other hand, they see speculation as the greedy hoarding of valuable resources now in order to gouge those who will need those resources later. I attempt to explain that if they are serious about conservation, they should also applaud speculation. The speculation that results from private property and the desire for profits is the most powerful force for beneficial conservation.

The Right Amount of Conservation

Without private property rights there could be no speculation for personal profit and no meaningful conservation. As discussed last month, animal species that are *not* privately owned are the ones at risk of extinction. Without private property no one has an incentive to conserve a resource, since no one can benefit from doing so. But if I own a resource and believe its value is going to be greater in the future (after considering the cost of holding it—including the opportunity cost of forgoing interest), I will conserve it for future use or sale. Similarly, even if I don't own a resource, but I believe its value is going to increase, I will buy it at today's price in order to conserve (hoard) it and then sell it at the expected higher price later.

But why should we depend on private property and greed to conserve valuable resources? Why not have the government determine how much of a resource should be conserved and then limit its current use accordingly? Relying on government to enforce conservation would be foolish even if the right amount of conservation were known. If government has enough power to allocate a resource over time, it has enough power to allocate its use to competing alternatives at each point in time. This much power guarantees waste, as special-interest influence replaces the cooperation of market exchange in determining how and where resources are used.

But even if the public interest, rather than special interests, motivated government decisions (dream on), the authorities could never determine the right amount of conservation as accurately as speculators subject to the discipline of the marketplace. There can be too much as well as too little conservation. Just as we don't want to use resources today that will be worth a lot more in the future, neither do we want to sacrifice consumption today to conserve resources that will be worth less in the future.

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Speculators Do It Better

Even if government authorities were not subject to special-interest influence, they would have less motivation to conserve wisely than speculators do. If bureaucrats make wasteful decisions, their salaries aren't reduced. Indeed, their failures often result in larger budgets, supposedly so they can do a better job. In sharp contrast, speculators make money only if they conserve wisely—purchasing resources (holding them off the market) when they are less valuable and selling them (making them available) when they are more valuable. If speculators don't conserve enough they pass up profitable opportunities to buy low and sell high, and if they conserve too much they lose money by buying high and selling low. As opposed to bureaucrats, who can survive despite their mistakes, the speculator who consistently makes mistakes is soon relieved of the money necessary to continue speculating.

Speculators can also act much more quickly than any government agency. For example, at the first indication that next year's Brazilian coffee crop will be devastated by a frost, speculators will immediately purchase raw coffee beans to store them until next year. Consumers will still see plenty of ground coffee in the stores, but suddenly the prices will be higher. What consumers don't see is that coffee prices will be lower next year than they otherwise would have been because they are higher today, and that their reduced consumption today will be more than compensated by their greater consumption later. The complaint will be that greedy speculators have unnecessarily driven up prices. Interestingly, the universal complaint against speculators that they cause current prices to be too high is really a complaint that they conserve too much.

Don't Complain Out Loud

I find it fascinating that people who believe that speculators are responsible for prices being too high complain about it out loud. The last thing you should do if you are convinced that speculators are harming the public by driving up the prices of important resources is to let others know. If you are correct, you can make yourself a fortune by keeping quiet, while providing a valuable public service at the same time. If the public is being harmed by speculative buying, it is because coffee is being taken off the market now when it is worth more than it will be later. If this is so, you would be right to criticize speculators for harmful price increases.

But this is a problem you can help correct. Simply call your broker and sell coffee short. Selling short means borrowing a quantity of coffee (from a speculator) and selling it at the currently high price. When the price falls later, you can buy the quantity borrowed, repay the speculator, and pocket the difference between the two prices. (You will have sold high and bought low.) If you were correct about market conditions, you will have made the coffee available to consumers now *and* made a profit. Why you should keep your criticism of speculators secret is obvious. If others believe you, they will sell coffee short themselves, which will drive down the current price and increase the future price, thereby reducing your profit opportunities.

Too Important to Leave to the "Experts"

Why don't we hear fewer people complaining about speculators and see more people selling short? The answer has to be that most people find complaining easier than understanding what they are complaining about. But the objective here is not to criticize. The important point is that anyone who believes he has better information on the future value of resources or commodities than is reflected in market prices can both profit personally and benefit society by acting on that information—if he is right. So when conservation is left to speculators, far more relevant information from far more people with far more at stake is acted on than if conservation is left to government.

Conservation is important, much too important to leave to government "experts." There is no better way of achieving sensible conservation than through the concern for the future that is motivated by private property, market exchange, and speculators putting their own money on the line. □

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THE FREEMAN
Ideas On Liberty

Protection for Bad Managers

by Christopher Mayer

My home state of Maryland is considering adopting anti-takeover legislation to protect the small number of major corporations with headquarters in the state. The legislation would allow the directors of Maryland corporations to adopt defenses against takeovers without the consent of shareholders. Thus the legislation would legally permit company managers to consider interests other than those of the owners—say, the employees, suppliers, customers, the managers themselves—in deciding whether to reject a takeover bid. Managers would be relieved of their legal responsibility to report such bids to their employers, the shareholders.

There is simply no economic benefit to be derived from this legislation, which would put Maryland near the bottom of the list of states with regard to takeover rules. It is the product of parochial state interests and a fundamental misunderstanding of the economic role of the corporate raider. It is also another weapon in the emerging economic war between the states, along with direct subsidies and tax benefits. Such an attempt to prevent takeovers will be self-defeating because consideration of interests other than shareholder interests will result in lower productivity, lower output, and lower living standards. (The federal government already has built obstacles to takeovers.)

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In the interest of full disclosure, I should say that I work for a bank with headquarters in Maryland and I might benefit from such a law. However, I have denounced this legislation at every opportunity. I believe it is a violation of shareholders' property rights.

Why Maximize Shareholder Value?

In the United States it is an accepted fact of corporate life that a firm's mission is to increase shareholder value. Failure to do so results in pressure from the board of directors, activist shareholders, and corporate raiders. The result might be a takeover—the purchase by one person or small group of a controlling share of stock—and the firing of the managers. That's what provides an incentive for managers to perform well.

The role of the corporate raider is therefore essential. Yet the media portray raiders (and those, such as Michael Milken, who finance them) as shortsighted menaces. This makes for lurid journalism and sensationalist storytelling. Recall the bestseller *Barbarians at the Gate* by Bryan Burrough, which chronicled the battle for RJR Nabisco.

However, as G. Bennett Stewart III asks in his book *The Quest for Value,* "Did the 'raiders,' as the pejorative label suggests, pillage companies solely for their personal enrichment leaving a weakened economy in their wake, or did they instead promote improvements in corporate performance and

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increases in market values for all to share?"[1]

In his book, Stewart outlines his comprehensive research on nearly 300 financial restructuring transactions completed in the 1980s. In a vast majority of cases the restructuring led to significant increases in market values and operating performance. The restructuring is one reason for the sustained economic growth the American economy has experienced.

The media home in on the job losses that often occur after takeovers. However, jobs are constantly being created as well as destroyed in a market economy. This is a mark of health, since workers are constantly moving to where they do more to satisfy consumers.[2]

Takeovers are generally a threat only to managers whose companies are performing below their potential. Raiders buy stock only from willing shareholders, who surely don't regard the transactions as hostile. The managers whose jobs are at risk understandably see a takeover as hostile to their interests. But they work for the owners. Why are they more deserving of sympathy than stockholders? (Stockholders are not all rich, of course, and managers make well above the minimum wage.)

The potential for a takeover is therefore a strong incentive for management to pursue projects and strategies that maximize shareholder value. Remove the threat of a takeover and you remove one of the shareholders' most effective means of policing management. (It is curious that some of the same people who decry takeovers also, on occasion, decry the lack of accountability of corporate managers.)

Foreign Differences

In other parts of the world, this incentive of managers to maximize stock value is not present. In Germany and Japan managers are expected to consider a more intricate web of stakeholders in the corporation, such as customers, suppliers, government, employees, and even society at large. Maximizing shareholder value is seen as inefficient, shortsighted, or downright selfish and antisocial. However, as authors Copeland, Koller, and Murrin point out, "Shareholder wealth creation does not come at the expense of other stakeholders. Quite the opposite."[3] Research has shown that there is a close link between maximizing shareholder value (which requires an open market for corporate control) and higher living standards and greater productivity. Maximizing shareholder value is especially important in the increasingly global economy, where capital is generally free to seek the highest returns. Societies that do not adopt such a corporate ethic will find it hard to attract and retain investment capital.

Beyond this, there is the ethical matter of property rights. Corporate managers should do what is in the best interest of shareholders because the shareholders own the corporation. Managers work for them. To make a law that weakens this responsibility is to undermine the property rights of the shareholders. When you hire an attorney or an accountant, you expect him to act in your best interests within the framework of the rules. Legislation that permitted your attorney or accountant to consider something other than your interests would be met with derision and disbelief. So should anti-takeover legislation.

In the Interests of State

Why is the state pursuing this legislation? Richard Lewin, the secretary of business and economic development and a prime advocate of the bill, says, "We have very few headquarters companies in this state. They're very important to us. I don't want to lose a Black and Decker or a Mercantile Bank."[4] Thus, stockholders are to be sacrificed to the parochial interests of the state government (and incumbent managers). Unfortunately, the bill's supporters seem to outnumber the detractors. Supporters include the Maryland Chamber of Commerce, the Maryland Bankers Association, and the Maryland Bar Association.

Lewin adds that hostile bidders are "doing it for sheer greed."[5] When badly performing managers try to cling to their jobs at the expense of stockholders, it is never characterized as "greedy."

Dan Abramowitz, president of the investment fund Hillson Partners states, "I don't

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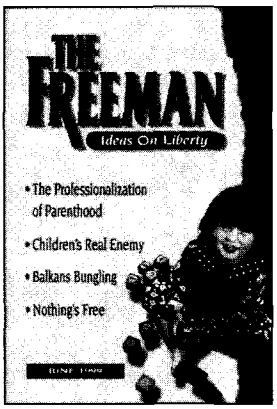
consider this anti-takeover legislation. I consider it anti-shareholder legislation. I'm a money manager, this is my home state. But if [the bill] passes, I would be far more hesitant to invest in a Maryland company because of the risk that my hands would be tied if something went wrong."[6] The legislation would further re-enforce Maryland's reputation as pro-regulation and hostile to business.

By adopting this legislation with the intent of preserving existing Maryland corporations, the state ignores the long-term dampening affect it will have on new investment in the state and on the probability of new corporate headquarters coming to Maryland. Behold the practical implications of ignoring Frederic Bastiat's great lesson about disregarding the unseen. □

1. G. Bennett Stewart III, *The Quest for Value: The EVA Management Guide* (New York: Harperbusiness, 1991), p. 477.
2. See Charles Baird, "Recycling Labor," *The Freeman*, April 1999.
3. Tom Copeland, Tim Koller, and Jack Murrin, *Valuation: Measuring & Managing the Value of Companies* (John Wiley & Sons, 1995), p. 3.
4. Peter Behr, "Maryland's Hostile Takeover Defense," *Washington Post*, February 25, 1999.
5. Ibid.
6. Ibid.

The Freeman—Reaching Out to New Readers



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Academic Freedom on Religious Campuses

by James R. Otteson

In a free society adults should be able to associate, establish institutions, and order their lives without interference, provided that in doing so they initiate no violence against others. That indeed is the definition of an open, peaceful society.

One thing in particular that adults are able to do in such a society is establish formal associations and groups. People who share certain views may want to ally themselves to promote and provide a safe haven for their views or just create a place in which like-minded people may gather. Most religious orders, for example, are of that nature: people sharing (some) common interests who establish an association in which they can pursue those interests together. Of course there is nothing wrong with people doing this—in fact, I would suggest that this habit of forming associations, which has been part of human nature for all of recorded history, is an essential element in leading a flourishing, happy life. People need associations and close ties to others to provide them the psychological well-being necessary for being happy.

But trouble can arise in this paradise. What happens, for example, when someone joins an established association and then decides to subvert it? Here we would seem to have a conflict of rights that free people enjoy. On the one hand, the people in the association have the right to maintain whatever kind of group they want; on the other hand, the new member, it would seem, also has the right to express himself as he sees fit. May the other members rightfully expel the newcomer—or does the newcomer have a right to stay and act according to his beliefs? It seems that we cannot have it both ways.

Notre Dame Case

This is precisely the situation in which many religiously oriented colleges and universities find themselves. They were founded and organized to conduct educational activities from within a specific religious framework. They have traditionally appointed presidents and trustees, hired faculty and staff, and admitted students on the basis of their commitment to or at least their tolerance for the school's religious framework.

The University of Notre Dame, for example, has only had Catholic priests of the Holy Cross order as presidents, and it makes explicit its commitment to the Catholic tradition. But Notre Dame now finds itself in a difficult position. It recently hired a faculty member who, it turns out, is not only not a Catholic, but is a Marxist atheist and an open lesbian. To make matters worse for Notre Dame, she is public and militant about her beliefs and practices, and is quite candid about her intention to subvert, as she sees it, the sexist, patriarchal, homophobic tradition of the Catholic church generally and of Notre Dame in particular. And she has further put

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Notre Dame on notice that if it tries to get rid of her, it will be sued before it can say a Hail Mary.

What to do? Notre Dame asserts its right to maintain its Catholic character, which entails, presumably, the right to exclude people who are antithetical to that character. The professor asserts her right to academic freedom, which is guaranteed, she claims, not only by the First Amendment but also by moral principle.

The notion of academic freedom (free speech for professors) was developed and pressed by—who else?—academics who were looking for protection from political persecution. They argued that they should not be punished for the views they hold, even if those views are politically controversial. Moreover, the long-term health of our civilization requires the uninhibited exchange of ideas in the search for truth. Colleges and universities were conceived as safe houses in which even the most outrageous and subversive ideas could be tried and tested. If they were no good, the marketplace of ideas would eventually weed them out; but under no circumstances should ideas be forced out—or worse, not allowed to join the debate in the first place—because they were politically inexpedient or unfashionable. Ideas are just too important to suffer those kind of restrictions, and professors, whose main currency is ideas, therefore deserve special protection on campuses.

This seems to leave us at an impasse, a purported case of rights clashing: the university's right to self-determination and the professor's right to free speech. There is, however, a way out that simultaneously protects the rights—properly understood—of *both* parties. We can eat our cake and have it too.

Misconstruing the First Amendment

The constitutional argument that the renegade professor marshals in her defense does not hold water. The First Amendment says that "Congress shall make no law . . . abridging the freedom of speech. . . ." If Notre Dame fires the professor for her beliefs, how can that be construed as, or even be relevant to, the Congress's making a law abridging speech? Even if we grant the substantial extension of the First Amendment's scope allowed by various twentieth-century court decisions and the "incorporation" clause of the Fourteenth Amendment, it seems plain that the First Amendment does not address private entities. (The emphasis on "private" is crucial. If the entity in question is publicly funded, the picture changes dramatically—and to the extent that Notre Dame accepts governmental funding, its claim to private autonomy is commensurately weakened.[1]) It seems clear that the First Amendment does not even address this professor's case, let alone provide her a protection. But let us not be content to argue about the constitutionality of Notre Dame's proposed action—for in the words of the first Chief Justice of the Supreme Court, John Jay, "anything in the Constitution can be made to mean anything."

Let us focus, then, on the moral issue involved. Would it be a violation of the professor's rights to fire her? And would Notre Dame therefore be acting immorally if it did so? The answer to both questions is no.

Like everyone else, the professor has a right to express herself without restriction from others. But this right does not entail that someone else must listen: included in the right to freely associate is the right to choose *not* to associate with the professor and thus not to listen to her.

To go a step further, although each person has the right to speak freely, no one has a right to demand that someone else provide a forum, for that would violate the other person's right to freely associate. Speech, after all, is merely an expression of belief; speech has been protected throughout the centuries in order to protect the sanctity of conscience. There is nothing special about words (or other sounds) in themselves that warrants protection. Likewise, the freedom to associate is a manifestation of private belief. Thus both the right to speak freely and the right to associate freely protect the right to believe what one wants to believe—and, by extension, to act peacefully on those beliefs.

An example will illustrate my point. Sup-

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pose you hire a painter to paint your living room and halfway through you notice that he has painted it all black enamel, though you had told him you wanted a light periwinkle. Suppose, then, you quite understandably fire the painter, at which point he claims that you had no right to fire him because that would abridge his freedom of artistic expression. You would undoubtedly inform him not to let the door hit him on the way out. He does indeed have a right to freedom of expression, but that does not mean he has the right to express himself in your living room. So your firing him does not infringe his rights; it merely asserts yours. It is your house, and you get to say what goes on in it. The painter may express himself elsewhere—in his own living room, perhaps.

The principle can be generalized to all private associations. Any group of adults may unite under any consensual conditions they please and they may include or exclude others as they see fit. Now there is an important restriction: if the group entered into a contract with a new member, it is bound to honor the contract even if the group later regrets the decision. But that has nothing to do with the right to free speech. (The standard pre-tenure university contract permits the dismissal of a professor at the end of an academic year.)

Reconciling the Notre Dame Dispute

The upshot is that Notre Dame can fire the subversive professor *and* respect her right to speak freely. By firing her it is acting entirely within its rights to associate freely. On the other hand, it has not interfered with her right to speak freely. She can continue her mission to subvert the Catholic church and to convince people that Christianity is a superstition. All Notre Dame would be saying is that it chooses not to provide her a forum. She can say what she wants, just not on Notre Dame's nickel.

As a university professor myself, I can assure you this issue is of no little moment for me. I would love to have someone else guarantee a lifelong forum in which I could espouse whatever opinions I wanted. But I, like my colleagues, have no right to force others to provide me with such a forum. If that means that Marxist atheist lesbian professors cannot get jobs at Catholic universities, then I think that is the price we pay for living in a free society. □

1. For an excellent summary of court decisions and other important historical events regarding academic freedom and the scope of the First Amendment, see Alan C. Kors and Harvey A. Silverglate, *The Shadow University: The Betrayal of Liberty on America's Campuses* (New York: Free Press, 1998), chapters 1–3.

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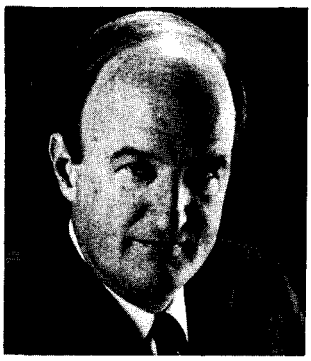

Say's Law Is Back

"Keynes . . . misunderstood and misrepresented Say's Law. . . . This is Keynes's most enduring legacy and it is a legacy which has disfigured economic theory to this day."

—STEVEN KATES[1]

In researching my forthcoming book, *The Story of Modern Economics* (to be published by M. E. Sharpe next year), I came across a remarkable new work by Australian economist Steven Kates, *Say's Law and the Keynesian Revolution.* According to Kates, John Maynard Keynes created a straw man in order to produce a revolution in economics. The straw man was Jean-Baptiste Say and his famous law of markets. Steven Kates calls *The General Theory* "a book-length attempt to refute Say's Law."

But to refute Say's Law, Keynes gravely distorted it. As Kates states, "Keynes was wrong in his interpretation of Say's Law and, more importantly, he was wrong about its economic implications."[2] And Kates is sympathetic to Keynesian economics!

How Keynes Got It Wrong

In the introduction to the 1939 French edition of *The General Theory*, Keynes focused on Say's Law as the central issue of macroeconomics. "I believe that economics everywhere up to recent times has been dominated . . . by the doctrines associated with the name of J.-B. Say. It is true that his 'law of markets' has long been abandoned by most economists; but they have not extricated themselves from his basic assumptions and particularly from his fallacy that demand is created by supply. . . . Yet a theory so based is clearly incompetent to tackle the problems of unemployment and of the trade cycle."

Unfortunately, Keynes failed to understand Say's Law. By incorrectly stating it as "supply creates its own demand," he proposed, in effect, that Say meant that everything produced is automatically bought. Hence, Say's Law cannot explain the business cycle.[3]

Keynes went on to say that the classical model under Say's Law "assumes full employment." Other Keynesians have continued to make this point, but nothing could be further from the truth. Conditions of unemployment do not prohibit production and sales from taking place that form the basis of new income and new demand.

Moreover, Say's Law specifically formed the basis of a classical theory of the business cycle and unemployment. As Kates states, "The classical position was that involuntary unemployment was not only possible, but occurred often, and with serious consequences for the unemployed."[4]

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Production and Consumption

Exactly what is Say's Law? Chapter 15 of Say's *A Treatise on Political Economy* describes his famous law of markets: "A product is no sooner created, than it, from that instant, affords a market for other products to the full extent of its own value."[5] When a seller produces and sells a product, the seller instantly becomes a buyer who has spendable income. To buy, one must first sell. In other words, production is the cause of consumption, and increased output leads to higher consumer spending.

In short, Say's Law is this: The supply (sale) of X creates the demand for (purchase of) Y.

Say illustrated his law with the case of a good harvest by a farmer. "The greater the crop, the larger are the purchases of the growers. A bad harvest, on the contrary, hurts the sale of commodities at large."[6]

Say has a point. According to business-cycle statistics, when a downturn starts, production is the first to decline, ahead of consumption. And when the economy begins to recover, it's because production starts up, followed by consumption. Economic growth begins with an increase in productivity, new products, and new markets. Hence, production spending is always ahead of consumption spending.

We can see why this is the case on an individual basis. The key to a higher standard of living is, first, an increase in your income, that is, your productivity, either by getting a raise, changing jobs, going back to school, or starting a money-making business. It would be foolish to achieve a higher standard of living by spending savings or going into debt to buy a bigger house or new automobile before you increase your productivity. You may be able to live high on the hog for a while, but eventually you will have to pay the piper . . . or the credit card bill.

According to Say, the same principle applies to nations. The creation of new and better products opens up new markets and increases consumption. Hence, "the encouragement of mere consumption is no benefit to commerce; for the difficulty lies in supplying the means, not in stimulating the desire of consumption; and we have seen that production alone, furnishes those means." Then Say added, "Thus, it is the aim of good government to stimulate production, of bad government to encourage consumption."[7]

The Cause of the Business Cycle

Say's Law states that recessions are not caused by failure of demand (Keynes's thesis), but by failure in the structure of supply and demand. Recession is precipitated by producers miscalculating what consumers wish to buy, thus causing unsold goods to pile up, production to be cut back, income to fall, and finally consumer spending to drop. As Kates elucidates, "Classical theory explained recessions by showing how errors in production might arise during cyclical upturns which would cause some goods to remain unsold at cost-covering prices." The classical model was a "high-sophisticated theory of recession and unemployment" that with one fell swoop by the illustrious Keynes was "obliterated."[8]

In his broad-based book, Kates highlights other classical economists, including David Ricardo, James Mill, Robert Torrens, Henry Clay, Frederick Lavington, and Wilhelm Röpke, who extended Say's Law. Many classical economists focused on how monetary inflation exacerbated the business cycle. They were precursors of the Austrians Ludwig von Mises and F.A. Hayek.

Free-market economists, such as W. H. Hutt and Thomas Sowell, have tried to rehabilitate Say's Law, but none carries the punch of Steven Kates. □

1. Steven Kates, *Say's Law and the Keynesian Revolution* (Northampton, Mass.: Edward Elgar, 1998), p. 1
2. Ibid., p. 212.
3. John Maynard Keynes, *The General Theory of Employment, Interest and Money* (London: Macmillan, 1936), pp. 25–26.
4. Kates, p. 18.
5. Jean-Baptiste Say, *A Treatise on Political Economy* (Augustus M. Kelley, 1971 [1832]), p. 134.
6. Ibid., p. 135.
7. Ibid., p. 139.
8. Kates, pp. 18, 19, 20.

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BOOKS

The Choctaw Revolution

by Peter J. Ferrara

Americans for Tax Reform Foundation • 1998 • 191 pages • $20.00

Reviewed by George C. Leef

The U.S. government's treatment of American Indians was despicable. Everyone knows that, at least in a general way. The forced resettlement of the Choctaws, of which the "Trail of Tears" is the most infamous episode, is undoubtedly among the sorriest instances of governmental duplicity, venality, and incompetence in our abundant history thereof.

We have become accustomed to "oppressed minority groups," with grievances far more imagined than real, demanding compensation at the expense of people who had nothing to do with the alleged injustices, or preferential treatment that necessitates abandoning equality before the law. So it is shocking to read of an instance where a "victim group" has chosen a different path. That is precisely the subject of Peter Ferrara's *The Choctaw Revolution*.

Ferrara relates the intriguing story of how the Choctaw tribe of Mississippi improved their lives not through political coercion, but by freeing themselves from paternalistic, enervating federal policy. It is a story that might just open the eyes of those who always proclaim their compassion for the oppressed, yet clamor for more government intervention to help them.

Ferrara is a well-known Washington policy analyst who has made his name mainly by exposing Social Security as doomed. Now he has given us a detailed look at federal Indian policy, an area as fraught with interventionist nonsense as Social Security is.

Through repeated treaty violations and land grabs, the government turned the Choctaws (and most other Indian tribes) into wards of the state, dependent on Bureau of Indian Affairs (BIA) bureaucrats for education, health care, housing, roads, law enforcement, and more. Ferrara quotes Chief Phillip Martin on the situation they faced: "The government could give us the bare essentials to survive, but if we wanted more, we would have to earn it ourselves." That was easier said than done.

Seeing that the federal government was doing a pathetic job of providing the Choctaws with the essentials, Martin decided that it was time to stop relying on the BIA and to start contracting for services directly. This is a right recognized for Indian tribes under the Indian Self-Determination and Assistance Act, but as the Indians should have known from history, having a right on paper and being able to exercise it are two different things.

Martin found the BIA bureaucrats fighting his efforts to contract for services at every point. That the Choctaws would have been better off without the bureaucrats was irrelevant. Ferrara writes, "Instead of pursuing the broad public interest as they are supposed to do, they pursue their own narrow parochial interest in their own turf, power, funding and jobs." The BIA repeatedly withheld information and technical assistance, arbitrarily imposed onerous requirements, delayed approving Choctaw initiatives, and even threatened retaliation against them for trying to exercise their rights. Eventually, after years of perseverance, the Choctaws were successful in contracting the BIA almost completely off their reservation, but it was a nasty, unseemly battle for freedom. Ferrara quotes one honest BIA official on the results of their fight to run their own affairs: "The tribe is doing an exemplary job. They're a more professional outfit than we ever were."

Another typical political fight the Choctaws (and other tribes) have had to wage is the avoidance of federal taxation of gambling casino proceeds. The profits from casinos go to fund improved housing, roads, education, and other things for Indian tribes. They also represent marginal competition for the big gambling interests in Las Vegas and Atlantic City. Nevada and New Jersey congressmen have introduced bills to subject Indian casinos to federal regulation and taxation, claiming

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without any evidence that they are "riddled with corruption." Donald Trump, quite willing to use politics to further his interests, lobbied personally for the bills. So far, however, the Indians have defended successfully against this attack.

Ferrara closes with a list of useful suggestions for improving government policy toward Indian tribes. He argues that "tribes should have the freedom to run their own lands" and advocates treating Indian reservations as enterprise zones free from capital gains taxes and regulations on both Indian and non-Indian business enterprises.

Of course, the entire country should be given that treatment, but if we must proceed in small steps, beginning with Indian reservations is sensible. Why not allow some of the poorest Americans the freedom to prosper, as the Choctaws have begun to? It would be a wonderful demonstration of the benefits of liberty. □

George Leef is book review editor of The Freeman *and director of the Pope Center for Higher Education Policy.*

The Great Depression: An International Disaster of Perverse Economic Policies

by Thomas E. Hall and J. David Ferguson

University of Michigan Press • 1998 • 216 pages • $42.50 cloth; $19.95 paperback

Reviewed by Michael R. Adamson

Thomas Hall and J. David Ferguson state two purposes in writing this book. Their first is to apply macroeconomic theory to an actual event, "the greatest macroeconomic disaster in U.S. history." Their second aim is historical. They seek to tell the story of how powerful officials in several countries "committed an incredible sequence of policy errors that generated a cataclysmic event reaching around the entire globe." The authors succeed admirably in their first objective, but do less well in their second. As economists relying on macroeconomics to explain the decision-making processes that culminated in and sustained the Depression, they demonstrate the limits of macroeconomics alone in analyzing and explaining historical events.

Nonetheless, *The Great Depression* is a valuable book. It is well written and the authors carefully explain many obscure practices of the interwar financial world, such as the Federal Reserve's real bills doctrine. Moreover, they ably marshal the secondary literature in economics to answer such questions as: why the depression was so severe, why it lasted so long, and why it was a global phenomenon.

Their answers to those questions reflect a monetarist consensus that synthesizes the work of Milton Friedman and Anna Schwartz, which focuses on the domestic sources of the depression found in Fed policy, and that of Peter Temin and Barry Eichengreen, whose work indicts the pursuit of the interwar gold standard for making the depression an international phenomenon. Although the authors do not include the analysis of Austrian economists, they rightly point to the role of the Hoover and Roosevelt administrations in perpetuating the Depression. Indeed, the authors reach the conclusion of Murray Rothbard and other Austrians: government intervention made conditions worse.

In applying macroeconomic criteria as the test of policy outcomes, the authors also applaud several federal policies that constituted unprecedented economic intervention. Accepting the idea that a central role of the government in monetary policy is essential, they approve of the banking and financial laws of the 1930s that established federal deposit insurance, and strengthened the power of the Fed. Similarly, given Fed failures, they view the Reconstruction Finance Corporation as a useful alternative lending institution. They also endorse the questionable idea that heavy federal defense spending ended the Depression. As Robert Higgs has argued, the war masked the Depression by putting people back to work, but did not end it in terms of restoring material well-being.

The book also fails to demonstrate the authors' main contention that it was policy errors of well-intentioned officials who were "grossly ignorant about the goals, tools, and

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impact of economic policy" that caused the Depression. They suggest that had policymakers just known better, they wouldn't have enacted the series of misguided policies that created "an absolute disaster." The historical literature leads to a rather different conclusion. For instance, as Herbert Stein has shown, New Deal officials were cognizant of monetary policy as a tool, but simply regarded it as ineffective. Holding dim views of financiers and bankers as a class and eager to demonstrate the capability of the federal government in restoring prosperity, they instead developed fiscal policy as a tool to manage the economy. The problem was not so much one of ignorance as of the mindset of the New Dealers.

Economic ignorance alone does not adequately explain historically how the series of misguided policies that caused and sustained the Depression came to be. What may seem today to be misguided policies were not necessarily obvious at the time. During the 1930s, few private or public leaders in America other than a small number of economists, Wall Street bankers, and Fed officials pointed to monetary policy as a primary cause of the contraction. Ultimately, *The Great Depression* fails to clarify for the reader precisely what the authors believe should have been obvious to contemporary policymakers, enabling them to avoid the calamity.

On the whole, the main macroeconomic conclusions of the book are sound: that policy mistakes of the 1920s and 1930s were the most important factors in causing the Great Depression; that the severity of the 1929–1933 contraction in America was due to bank failures that resulted from Fed inaction; and that the duration of the Depression owed to the lack of pro-active Fed policy after 1933 and the economic incoherence of the subsequent New Deal program.

This book, while limited in some respects in its explanatory power, helps to refute the still-popular notion that the Depression was caused by an inherent flaw in the market economy, inexplicably causing economic collapse. □

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The Noblest Triumph: Property and Prosperity Through the Ages

by Tom Bethell

St. Martin's Press • 1998 • 378 pages • $29.95

Reviewed by William R. Allen

Property is a multifaceted and fundamental topic. Tom Bethell here gives us a broad survey, dealing with economic, political, and legal theory; episodes of economic and political activity; and assessments of institutional constraints and procedures from ancient Greece to virtually the day before yesterday.

Since the fiasco in the Garden of Eden, we have lived in a world of scarcity. The ineluctable state of limits implies not only frustration but also conflict. But there are many ways to compete, and communities differ enormously in how the economic/social/political game is played.

How we survey our possibilities and formulate our strategies, how we interact with each other and coordinate our efforts, is determined largely by the rules of the game. Those rules basically are subsumed under "rights to use of property." The right to use property we "own" is necessarily limited—I cannot use my hammer to break your window—but what are those limits, how are they determined, and by whom? Property rights go far to define the nature of the community, providing constraints, opportunities, and incentives with respect to what we do and how we do it and determining how we adapt to our niggardly circumstances. Some systems of property rights are much more conducive than others to living together productively and civilly.

The implications of who has what property rights include subtle aspects of political and social philosophy. "The Western concept of human rights presupposes individualism," Bethell writes, and individualism finds much of its operational manifestation in private rights in property. Equality before the law and freedom of contract are antecedent to a free-market economy.

All this is pursued, elaborated, and illustrated by Bethell with references to a mass of var-

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ied literature, from ancient to modern. He is centrally concerned with "the legal and political foundations that are essential to economic growth." In an individualistic open market with well-defined property rights, options can be discovered; opportunities can be identified; negotiations and exchanges can be conducted; division of labor and coordination can be effectuated; long-range plans can be confidently formulated; and credit can be obtained. Moreover, good stewardship of assets is rational. Bethell persuasively argues that "private property is a necessary (but not a sufficient) condition" for a society to enjoy the "four great blessings" of "liberty, justice, peace and prosperity."

Some origins of private property are found in Roman law, but our heritage comes mainly from long-developing English common law. Perhaps the operational high point of private property is seen in mid-eighteenth-century Britain. Unfortunately, intellectuals of the eighteenth and nineteenth centuries—including the classical economists—did not adequately spell out the significance of property relations for a flourishing society.

Here, I believe, Bethell is excessively impatient with and ungenerous toward writers of a century or two ago who did not foresee the insight of a handful of analysts of our own generation. The way was left open for much socialistic silliness in both advocacy and action during the last two centuries, but he is too harsh on good economists for not being better.

The author recounts much of the utopianism provided, before and during modern times, by the Jamestown, Plymouth, and New Harmony experiments; by Sir Thomas More, Jean Jacques Rousseau, William Godwin, Robert Owen, and Karl Marx; by the fiasco of the twentieth-century communism; and by the misdirection and mismanagement of modern "emerging Third World economies." He accounts for the rise and fall of the Ottoman Empire and the Irish famine of the 1840s and tries to explain intricacies of today's "intellectual property" within a framework of property rights. And he devastatingly quotes the naïveté of agitators, politicians, jurists, and economists: see especially Theodore Roosevelt's insidious distinction between "rights of property" and "rights of men."

Seminal work on the implications of property rights is to be applauded, but I fear that such interest is not likely to be sustained. Today's younger economists may not consciously defame private property, but most do little to defend it.

At any rate, innovative academic scribblers can use felicitous help from writers who can reach a wide, non-specialist audience. Mr. Bethell, with a style that is typically graceful but with journalistic assurance, has played his expository role well. □

William Allen is emeritus professor of economics at UCLA.

Two Lucky People

by Milton and Rose D. Friedman

University of Chicago Press • 1998 • 655 pages • $35.00

Reviewed by Bill Field

I still remember, after more than 30 years, my mounting excitement as I read *Capitalism and Freedom* for the first time and discovered the wondrous moral and economic benefits of being "free to choose." Reading it changed my professional life. Here was solid economic reasoning, but economics with a heart, and—unbelievably—economics that was exciting. All my subsequent economic thinking has been driven by this experience. While I eventually wandered off the Friedman reservation, I still have a warm feeling for the book and author who started it all for me.

Two Lucky People, the memoirs of Milton and Rose Friedman, is not a work primarily focused on economic theory or policy. The book assumes that readers are familiar with the Friedmans' economic ideas, although it does provide summaries and defenses of many of their positions. Rather, *Two Lucky People* is an easygoing narrative of the experiences of a happily married couple, with some sections written by each individually and others by the two combined.

The Friedmans clearly qualify as a traditional family unit, with Milton the primary

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breadwinner and Rose focusing on homemaking. Milton, despite his obvious affection for his wife and family, is drawn back time after time in his account to his professional experiences and economic ideas. Rose, despite her obvious competence and interest in economics, is drawn back to the family and its experiences. It is heartwarming to see a couple of such extraordinary intellectual ability experiencing the ups and downs of daily life.

As Rose and Milton carry us through their lives and careers, they provide us with glimpses of many of the greatest and not so great economists of the twentieth century. Their reminiscences demonstrate that personal foibles and prejudices exist among the intellectual elite as surely as in the general population. Some instances are touching; others produce a sense of revulsion.

Examples of the latter include the anti-Semitism encountered by the Friedmans in academia in general, faculty cliquishness that escalates into personal animosities, and the incredible close-mindedness of leftists to the failures of socialism.

Milton also provides us with interesting portraits of the presidents he advised. No one should be surprised at the picture of Richard Nixon as having a powerful intellect and vast knowledge, but often carrying out policies he knew were socially undesirable in pursuit of short-run political advantage. Friedman's admiring portrait of Ronald Reagan shows much more respect for his intellect than most Washington commentators.

Of interest is the section devoted to the evolution of the "Free to Choose" television series, especially the resistance encountered from leftists within the public television establishment. While pressure from sponsors and other sympathizers eventually forced almost all public stations to show the series, there was much opposition, as exemplified by the decision of the New York station to run the show's initial program opposite the Super Bowl.

Today, when the Friedmans' ideas are almost mainstream intellectually (if unfortunately not in policy), it is hard for many of us to remember (and for younger people to have any notion of) the long-term resistance they faced. For many years the Duke University library carried none of Milton Friedman's books because of faculty hostility to his ideas. At the same time, the library had a complete collection of the works of Karl Marx. When *Capitalism and Freedom* was published in 1962, it was reviewed in almost no general publications—even though it was obviously aimed at a broad audience and Milton was already known internationally.

Rose and Milton present all this information about their lives with a minimum of malice. The dominant tones of the book are optimism and pride. A sense of vindication is evident: the free market is winning the battle of ideas and ultimately will win the battle over policy. As Milton stresses, advocates of the free market are inherently patient, long-term thinkers. He is perfectly willing to be judged by the economics profession and others 25 to 50 years in the future. He is confident, and surely with good reason, that his work in positive and normative economics will stand the test of time. □

Bill Field is a professor of economics at Nicholls State University.

Global Greens: Inside the International Environmental Establishment

by James M. Sheehan

Capital Research Center • 1998 • 213 pages • $25.00

Reviewed by Jane S. Shaw

Only a policy wonk could love this book, but its contents are vital for understanding a major change underway in environmental and foreign policy. Ahead of many others, James Sheehan has recognized the growing power of the international environmental movement. Sheehan, who directs international policy activities for the Competitive Enterprise Institute, describes the exercise of this power in *Global Greens*.

The book centers on "NGOs" (non-governmental organizations) that emphasize environmental issues. To a person concerned about freedom, the term "non-governmental

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organization" may sound benign, but most NGOs are not friendly to liberty at all. They are ideologically committed to greater government control to address environmental problems, and they perceive international pressure as the way to achieve that control.

According to Sheehan, about 4,000 NGOs are actively involved in environmental issues. These include large environmental organizations such as Greenpeace and the World Wildlife Fund, but also an array of others, including labor unions, so-called consumer groups, and women's organizations. In general, their goals are to force changes in people's lives, especially in the industrial countries, supposedly to protect the planet from human-caused harm.

The prominence of NGOs reflects the rise of international treaties as a way of dealing with environmental issues. For reasons that aren't fully clear, the governments of the United States and other industrialized countries now allow international treaties to shape important parts of their environmental policies. According to Sheehan, the momentum began in 1972, with the first United Nations Conference on the Human Environment. It slowed during the Reagan administration, when President Reagan withdrew from negotiations over the Law of the Sea Treaty, but picked up again with the Clinton administration. Today, many NGOs are official participant-observers at United Nations conferences, summits, and functions. As the U.N.'s influence grows, so does theirs.

As a result, an ever-growing collection of summits, conventions, treaties, and frameworks undergird environmental policy in the United States. During the 1980s, Sheehan reports, 250 environmental treaties or conventions were enacted. Treaties, to cite just a few examples, limit the use of chemicals that are believed (by many) to deplete stratospheric ozone, ban trading in certain animal species, and have begun to influence the use of fossil fuels. Forty-seven places in the United States are now designated U.N. Biosphere Reserves (including the Everglades) and 19 are World Heritage Sites (including Yellowstone National Park). These give the green NGOs leverage to control land use in and around those places. The international noose is tightening.

In 1992, the Rio Summit (the U.N. Convention on Environment and Development) took center stage. This meeting launched a proliferation of activities and agreements, including a global-warming treaty (signed by President Clinton, but not ratified by the Senate); a U.N. commission on sustainable development; conferences on such topics as women, housing, and population; and the World Bank's Global Environment Facility (which Sheehan calls a "$2 billion slush fund for Third World environmental projects").

Sheehan describes in detail several important international treaty negotiations of recent years, including the 1994 International Conference on Population and Development, the 1996 World Food Summit, and the 1997 Kyoto Protocol on global warming. He observes that NGOs did not always achieve their goals at such meetings. However, as time goes on, they have become increasingly adept at influencing treaties in the direction they want, a fact that bodes ill for our freedom and prosperity.

Sheehan's reporting of each event is thorough and well-footnoted. In some of the negotiations he discusses, he was a firsthand observer. His book is clearly written and has no visible gaffes. It includes lists of prominent NGOs (including information about their funding) and other reference material.

Why then is it not more exciting? The reason is probably that it deals mostly with facts—a lot of facts—rather than with ideas. Sheehan provides extensive details that illustrate his theme: the growth of international environmental organizations. He doesn't explore the reasons behind this growth or speculate on its future directions. Such discussion would have added interest.

Still, Sheehan has provided a valuable service in marshaling so much information about the network of environmental NGOs. His descriptions of the Greens in action around the world throw light on activities that have to date escaped widespread scrutiny, and provides material that I and others will draw on in the future. □

Jane Shaw is a senior associate of PERC in Bozeman, Montana.

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What's wrong with libertarianism...

...And how to fix it

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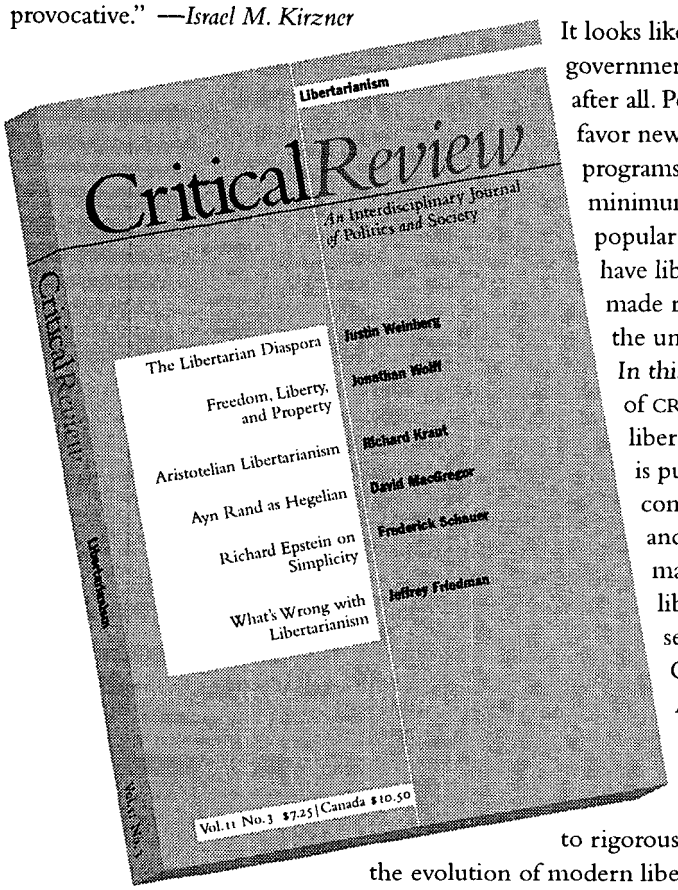

It looks like the era of big government isn't over after all. Politicians who favor new government programs and higher minimum wages are as popular as ever. Nor have libertarian ideas made real progress in the universities. Why? In this special issue of CRITICAL REVIEW, libertarian philosophy is put through a complete overhaul and tune-up. Every major version of libertarianism—self-ownership, Objectivism, Aristotelianism, and free-market economics—is subjected to rigorous scrutiny, and the evolution of modern libertarianism is examined to see why it has not fulfilled its potential. A must-read for anyone who takes libertarianism seriously. *Also available: a new special issue devoted to F.A. Hayek.*

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An Open Letter to the California Legislature

As a student of public choice theory, I understand why you support SB 1241, a mandatory agency-shop bill for California State University (CSU) faculty. After all, in the words of Ambrose Bierce, "politics is a strife of interests masquerading as a contest of principles." The California Faculty Association (CFA) supports you in the political marketplace, so it is quite natural for you to give them the power to extract more dues money from faculty. If they have more dues money, they can give more to you. I imagine from your perspective this is a virtuous circle.

I have written extensively on the issue of so-called union security. I know you understand the main argument in favor of union security—the so-called free-rider problem—but I would like to give you the other side of the story.

First, there could be no free-rider problem if it were not for the principle of exclusive representation. If we had a system of members-only bargaining (sometimes called proportional representation), the CFA would not have to bargain on my behalf. I could not receive any of the alleged benefits of their representation services, because I would be responsible for bargaining for myself or for selecting some other representative to bargain for me. In other words, the union's free-rider problem is an artifact of the law. It is not a problem inherent in collective bargaining.

Charles Baird is a professor of economics and the director of the Smith Center for Private Enterprise Studies at California State University at Hayward.

Workplace Democracy

Now, you are probably thinking that exclusive representation is simply majority rule in the workplace. It is economic democracy. After all, as I have heard many of my debate opponents say, we elect members of the legislature by majority vote. A winning candidate represents all eligible voters in his or her district notwithstanding that many voted for another candidate and many more didn't vote at all. That is what democracy is all about. The majority rules. If it is good in politics, it must be good in unionism too. But that conclusion is a non sequitur.

Government is a natural monopoly. It has a monopoly on the legal use of force. There can be only one government at a time. Like all monopolists, governments have a tendency to abuse their monopoly power. Historically, democracy evolved as a way for the governed to have some ability to protect themselves against governmental abuse. Democracy—the mandatory submission of minorities to the will of majorities on all matters that are within the constitutional scope of governmental authority—was never intended to be imposed in the private sphere of human action. There, individual autonomy and free choice are the proper rules. Private persons are free individually to associate with private groups that use majority rule to make decisions, but they are also free not to do so.

Unions are not governments. They are private associations. (The last time I checked, civilian employees of government were still

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private citizens.) To impose mandatory submission of minorities to the will of majorities in private affairs by statute is to breach the constitutional wall of separation between government powers and individual rights. On this reading therefore, exclusive representation is illicit. (You cannot take refuge in the U.S. Supreme Court's 1937 ruling in the *Jones & Laughlin Steel Co.* case, which upheld the National Labor Relations Act. We all know that decision was made possible by the switch of votes by Chief Justice Charles Evans Hughes and Associate Justice Owen J. Roberts in an effort to avoid Roosevelt's court-packing plan. This was the switch in time that saved nine.)

Do you realize that the United States and Canada are the only two countries in the world with exclusive representation unionism? I have given lectures all over the world on this issue. From South Africa to New Zealand to Austria to England, audiences are appalled that America, supposedly the most free country in the world, denies to individual workers the right to designate workplace representatives of their own individual choosing.

Forced Riders

The second reason the free-rider argument is false is the problem of the forced rider. Unions claim to confer net benefits on all workers whom they represent. That is nothing but a big lie. For example, the CFA does not confer net benefits on me. To the contrary, I am much worse off having the CFA represent me than I otherwise would be. Just the psychic cost of being forced to have people with whom I have profound educational and philosophical differences speak for me far outweighs any monetary benefits they claim to have secured on my behalf. (Incidentally, I deny that the CFA has secured any monetary benefits for me.) So I suffer net harms from the CFA, and now you want to force me to pay for those net harms through so-called "fair share fees." In economics a forced rider is a person who suffers net harms from some collective action and is forced to pay for them. There may be free riders, but there are also forced riders. Don't you, as elected officials, have a moral responsibility to protect the rights of forced riders? We are citizens too.

It is telling that SB 1241 doesn't even make the agency shop a subject of bargaining between the CFA and CSU. Instead, it imposes the agency shop burden by force of statute. I guess you don't have much confidence in the CFA's bargaining abilities. The CFA has never been able to accomplish anything without you, their political patrons, giving it special privileges under the law. That is why I have always called the CFA the Cabal of Feckless Academics.

Finally, as soon as you empower the CFA to steal money from my paycheck, I and several like-minded colleagues on many CSU campuses will, with pro bono representation, initiate legal proceedings based on the following Supreme Court decisions: *Abood v. Detroit Board of Education* (1977), *Chicago Teachers Union v. Hudson* (1986), and *Lehnert v. Ferris Faculty Association* (1991). These public-sector rulings guarantee that no agency fees extracted from public employees can be used for any purpose other than collective bargaining, contract administration, and grievance processing. In *Lehnert*, for example, your favorite type of union expenditure—lobbying—was declared to be an impermissible use of forced union fees. In that same case 90 percent of union expenditures were held to be impermissible uses of such fees. You'd better tell your union partners to keep good books. The measly 15 to 20 percent difference between union dues and agency fees you wish to write into the law will not stand up in court. And I, for one, am going to enjoy proving it.

Sincerely,
Charles W. Baird

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FEE Roundtables and Lecture Series

Looking for something to do that's fun AND expands your intellectual horizons? Why not join us at our lovely Westchester offices for one or more of our lecture series events? Over the next three months FEE will host a Roundtable Dinner, its Fall Trustees' Dinner, and several less formal lectures.

We look forward to having you join us for good food and great talk in a beautiful setting!

Wednesday Evening, August 11th Reception and talk by Dr. Andrew Morriss of Case Western Reserve Law School on the provision of private law. Do we need government to supply law? Dr. Morriss gives his perspective. 7 p.m. Free.

Monday Evening, August 16th Reception and talk by Ms. Bretigne Shaffer, staff writer for the *Asian Wall Street Journal,* on "Prospects for Freedom in Hong Kong." 7 p.m. Free.

Saturday Evening, September 25th Roundtable Dinner with Mr. Walter Olson, senior fellow at the Manhattan Institute and columnist for *Reason* magazine, on "Employment Law: The Unintended Consequences." 6 p.m. Cost: $35 per person.

Sunday Evening, October 17th FEE Fall Trustees' Dinner with Dr. Steven Landsburg, *Slate* columnist and author of *The Armchair Economist* and *Fair Play: What Your Child Can Teach You About Economics.* 5 p.m. Cost: $75 per person/$110 per couple.

Saturday Evening, October 23rd Reception and talk by Ms. Jane Shaw of the Political Economy Research Center in Bozeman, Montana. Ms. Shaw will discuss her best-selling book *Facts, Not Fear,* which examines the misleading ways environmental issues are often presented in school textbooks. 7 p.m. Free.

For reservations, or for more information, please contact Ms. Janette Brown at 914-591-7230, ext. 201, or e-mail jbrown@fee.org.

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"The truth is, as I have spent almost my whole academic life in reiterating, the free market is color blind and race blind. When we buy a product, we do not ask, 'What was the color of the person who made this?' We ask, 'Is this good value for money?'"

—WILLIAM H. HUTT (1899–1988)

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